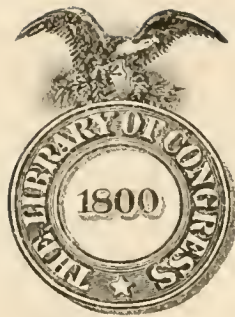


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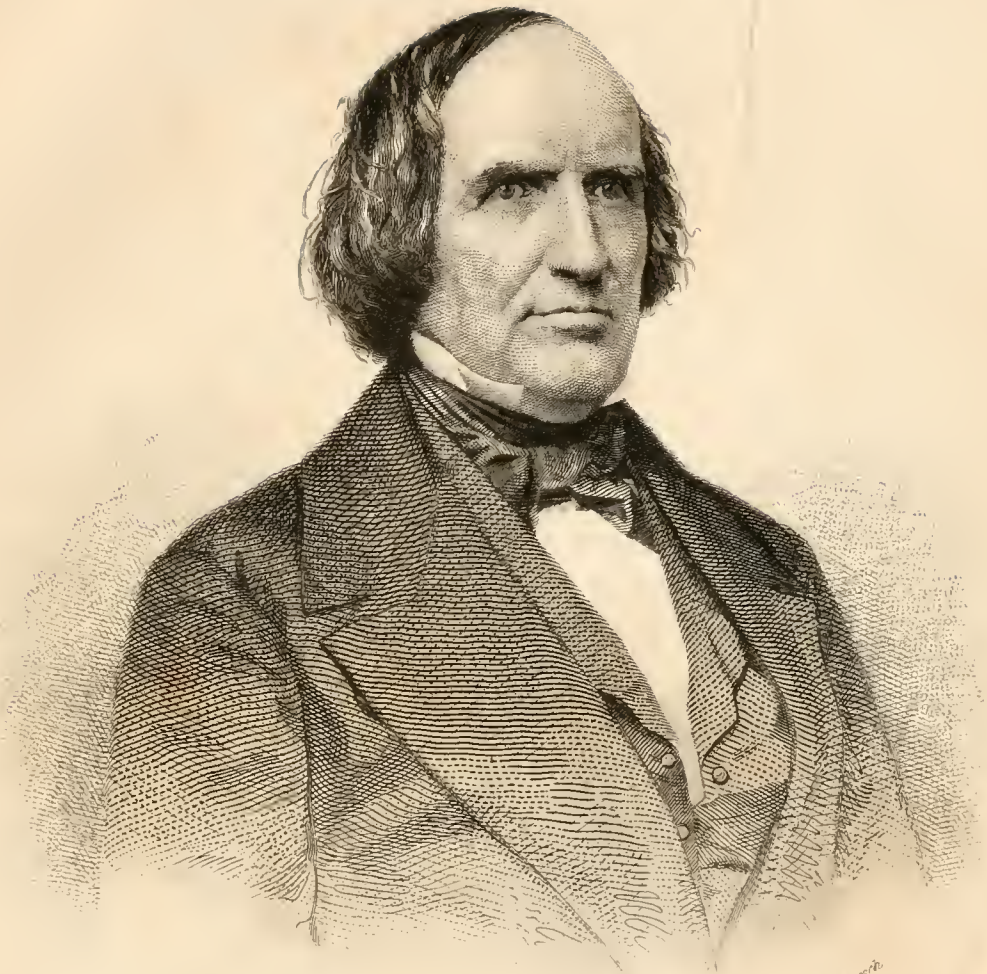
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Very respectfully
your obedient
servant
W. L. Garrison



With great respect
John McLean

Justice of the Supreme Court of the U.S.

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The Biography

BIOGRAPHICAL SKETCHES

OF

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DISTINGUISHED

AMERICAN LAWYERS.

part I -

HON. JOHN McLEAN,

JUSTICE OF THE SUPREME COURT OF THE UNITED STATES.

A low, vaulted chamber in the eastern basement of the capitol, having no pretensions to architectural splendor and ornament, is the place where the Supreme Judicial department of the Federal Government has its local habitation. There is exercised an authority, bounded in its territorial extent only by the limits of the republic. It embraces among its subjects, individuals, tribes, and sovereign states; the operations of the state and federal governments in various departments and relations; and determines rights incident to peace and war. Its judges are called upon sometimes to administer the laws of nations, the laws of the federal republic, the laws of the several states; to expound national treaties, and enforce private contracts. In the variety, importance and majesty of its jurisdiction, and the wisdom and simplicity of its exercise, the Supreme Court of the United States has no parallel upon earth, and is without example in the history of the world. The stranger in Washington, who comes into the presence of this tribunal, and witnesses the grave simplicity and wisdom that distinguishes its proceedings, feels a degree of respect and veneration inspired by no other department of the government. As with deep interest he looks upon the magistrates clothed with such high authority, his eye will rest upon the calm and dignified countenance of Mr. Justice McLean, who now sits in that chamber, the survivor of Marshall and Story, at the right hand of the Chief Justice, the senior judge in commission.

A Judge of the Supreme Court of the United States, Postmaster-General, Commissioner of the General Land-Office, Member of Congress, a Judge of the Supreme Court of his own state—these important stations in the three departments of government, executive, legislative, and judicial, comprise the sphere of Judge McLean's public life. The manner in which they have been filled is distinguished by an ability equaled only by the integrity of his private life; presenting a character useful and worthy of respect in its day and generation, extending by example its influence to all time.

The history of such a life is the history of the country. In the brief space allotted for this sketch, can only be traced in outline the path by which, from obscure youth and humble station, Judge McLean has attained the honors of his mature age. And it will thus be seen, that while such distinction is reached by few, the path to it in this republican government is open to all; that to his principles may be ascribed the usefulness and success of his life.

"Lives of great men all remind us,
We can make our lives sublime;
And departing, leave behind us,
Foot-prints on the sands of time."

In Morris county, New-Jersey, on the 11th of March, 1785, John McLean was born. Four years afterwards his father, in humble circumstances, with a large family, removed to the western country; settling for a short time, first at Morgantown, Virginia, afterwards on Jessamine, near the town of Nicholasville, Kentucky, from whence he removed in 1793 to the neighborhood of Mayslick; and finally, in 1799, to that part of the territory northwest of the Ohio river, which now constitutes Warren county, Ohio. He settled upon and cleared a farm in this new country, where for forty years, and until his death, he resided. His son afterwards owned, and for a long time resided, upon the homestead. The means of education in that country in those days were very limited; and in the father's condition, the son could not be sent abroad to be educated; but being sent to school at an early age, he made great proficiency in the elementary branches of education. Laboring on the farm until sixteen years of age, he then received instruction from the Reverend Matthew Wallace and Mr. Stubbs in the languages, with which by their aid and diligent study he became well acquainted; in the meantime, with generous independence refusing to tax his father's limited means, he by his own labor maintained himself, and defrayed the expenses of his tuition.

Ardent and aspiring, at an early age he resolved to pursue the legal profession. Animated with genuine ambition, dismayed by no difficulties, with firm and determined purpose confiding in his own virtue and industry to overcome all obstacles, he engaged at the age of eighteen years to write in the clerk's office of Hamilton county, in Cincinnati, in order to maintain himself by devoting a portion of his time each day to that labor, while pursuing the study of law under the direction of Arthur St. Clair, an eminent counsellor, son of the distinguished general of that name, and who had been governor and judge of the Northwest Territory. While supporting himself, he thus acquired, in connection with the principles of legal science, a knowledge of the practical forms of his profession, the details of public business, and formed those methodical and diligent habits that proved of infinite service in his subsequent career. In addition to his other employments, he became a member, and took an active part in the discussions of a debating society in Cincinnati, many of whose members have since attained distinction in the public service. And it may well be doubted, whether any mode of instruction more efficient could have been devised for the future lawyer, statesman and judge, than was diligently resorted to for

three years by the young aspirant for his own improvement, and to overcome his straitened circumstances and secure his independence.

In the spring of 1807, being then twenty-two years of age, Mr. McLean was married to a lady of amiable manners and great benevolence of character, Miss Rebecca Edwards, daughter of Dr. Edwards, formerly of South Carolina. She was for many years his devoted companion, sharing the struggles of his early life and the honors of his manhood, in her own sphere presiding with judgment and discretion over the cares of a large family.

In the fall of 1807, he was admitted to the bar; and entering upon the practice of law at Lebanon, in Warren county, he soon found himself in the enjoyment of public confidence, and in the receipt of ample professional emoluments.

At the October election in 1812, becoming a candidate to represent in Congress his district, which then included the city of Cincinnati, after an animated contest with two competitors, he was elected by a large majority over both of the opposing candidates. The political principles with which he entered public life, and the manner they were acted upon in the high and responsible station to which he was now called, have been thus stated: "From his first entrance upon public life, John McLean was identified with the democratic party. He was an ardent supporter of the war, and of the administration of Mr. Madison, yet not a blind advocate of every measure proposed by the party, as the journals of that period will show. His notes were all given in reference to principle. The idea of supporting a dominant party, merely because it was dominant, did not influence his judgment, or withdraw him from the high path of duty which he had marked out for himself. He was well aware, that the association of individuals into parties, was sometimes absolutely necessary to the prosecution and accomplishment of any great public measure. This he supposed was sufficient to induce the members composing them, on any little difference with the majority, to sacrifice their own judgment to that of the greater number, and to distrust their own opinions when they were in contradiction to the general views of the party. But as party was thus to be regarded as itself, only an instrument for the attainment of some great public good, the instrument should not be raised into greater importance than the end, nor any clear and undoubted principle of morality be violated for the sake of adherence to party. Mr. McLean often voted against political friends: yet so highly were both his integrity and judgment estimated, that no one of the democratic party separated himself from him on that account. Nor did his independent course in the smallest degree diminish the weight he had acquired among his own constituents."

Among the measures supported by him, were the tax bills of the extra session at which he first entered Congress. He originated the law to indemnify individuals for property lost in the public service. A resolution instructing the proper committee to inquire into the expediency of giving pensions to the widows of the officers and soldiers who had fallen in their country's service, was introduced by him; and the measure was afterwards sanctioned by Congressional enactment. By an able speech he defended the war measures of the administration; and

by the diligent discharge of his duties in respect to the general welfare of the country, and the interests of his people and district, he continued to rise in public estimation. In 1814, he was re-elected to Congress by the unanimous vote of his district, receiving not only every vote cast in the district for representative, but every voter that attended the polls voted for him—a circumstance that has rarely occurred in the political history of any man. His position as a member of the committee of foreign relations and of the public lands, indicates the estimation in which he was held, and his familiarity with the important questions of foreign and domestic policy which were in agitation during the eventful period of his membership. The wide field for public usefulness presented by the representative branch of the national legislature, induced him to decline earnest solicitations to become a candidate for the United States Senate in 1815, at a time when his election was regarded as certain, although he had only attained his thirtieth year, and was therefore barely eligible. He remained in Congress until 1816, when the legislature of Ohio having unanimously elected him a judge of the Supreme Court of that state, he resigned his seat in Congress at the close of the session, and was succeeded as representative of that district by General Harrison.

After his acceptance of the judgeship, and before his resignation, the famous compensation bill was reported, giving to each member of Congress a salary of fifteen hundred dollars a-year, in lieu of the per diem allowance then paid, which was supported by the judge and by the principal members of Congress of both political parties. He was on the committee that reported the bill; and being convinced that it was a measure eminently calculated to advance the public service, he voted for it, believing that it would shorten the sessions of Congress, give it a more business character, and greatly lessen the public expenditure. Under this law, no useless discussions would have been tolerated, and the business before Congress would have been promptly dispatched. But the law was perverted, and its effects misrepresented by selfish aspirants, so that at the next session it was repealed, and the present law giving eight dollars per day, and eight dollars for every twenty miles travel, was passed. Under the salary system, few members would have consented to remain in session longer than was necessary to act on the business before them. The contingent expenses of Congress would have been one-third less than they now are, and the annual pay of the members would have been proportionably reduced: at the same time, they would have been better paid for the time spent in legislation. But the most desirable feature in the reform would have been found in the increasing dignity and business character of the body.

Judge McLean remained six years upon the Supreme Bench of Ohio, serving the state with great advantage to its jurisprudence, and evincing those professional attainments and judicial qualities that have since distinguished his present station. In the summer of 1822, he was appointed Commissioner of the General Land Office by President Monroe; and in July, 1823, he became Postmaster-General.

The administration of the General Post-Office, in the condition it then was, presented so little for an ambitious man of reputation to hope for,

and so much to dread, that his friends earnestly endeavored to dissuade him from accepting the appointment. Disordered arrangements, depressed finances, arduous duties, public complaints and distrust, not unmingled with groundless abuse and calumny, presented a field where it was generally thought no reputation could be won. But confiding in his own industry and ability, and relying with confidence upon the virtue and intelligence of the people properly to estimate devotion to their service, Judge McLean resolved to undertake the hazard of the office. Order and economy enforced, finances improved and credit restored, regularity and dispatch of the mail, intercourse extended, and commercial correspondence carried on with ease, celerity, and security before unknown, soon manifested the application of his vigorous mind and methodical habits to the complicated affairs of the Post-office department. Devoting his personal attention to all the details of business, guarding against fraud and corruption in the making and execution of contracts, promptly dismissing unfaithful and inefficient contractors, agents, and postmasters, superintending all the correspondence, and acting upon all appointments and complaints, his administration of this department was rewarded with unexampled success and public confidence. By a nearly unanimous vote of the Senate and House, the Post-master-General's salary was increased from four to six thousand dollars. Those who from motives of policy opposed the measure, did so with reluctance; and John Randolph said the salary was for the officer and not for the office, and that he would vote for the bill if the law should be made to expire when Judge McLean left the office.

The distribution of the public patronage of his department exhibited in another respect his qualities as an executive officer, and manifested the rule of action that has always marked his character. The principle upon which executive patronage should be distributed, has been one of the most important questions in this government, and has presented the widest variation between the profession and practice of individuals and parties. In the administration of the Post-office department by Judge McLean, an example was presented in strict consistence with sound principles of republican government, and just party organization. "During the whole time that the affairs of the department were administered by the judge, he had necessarily a difficult part to act. The country was divided into two great parties, animated by the most determined spirit of rivalry, and each bent on advancing itself to the lead of public affairs. A question was now started, whether it was proper to make political opinions the test of qualification for office. Such a principle had been occasionally acted upon during preceding periods of our history; but so rarely, as to constitute the exception, rather than the rule. It had never become the settled and systematic course of conduct of any public officer. Doubtless every one is bound to concede something to the temper and opinions of the party to which he belongs, otherwise party would be an association without any connecting bond of alliance. But no man is permitted to infringe any one of the great rules of morality and justice, for the sake of subserving the interests of his party. It cannot be too often repeated, nor too strongly impressed upon the public men of America, that nothing is easier than to reconcile these two apparently conflicting views. The meaning of

party, is an association of men for the purpose of advancing the public interests. Men thrown together indiscriminately, without any common bond of alliance, would be able to achieve nothing great and valuable; while united together, to lend each other mutual support and assistance, they are able to surmount the greatest obstacles, and to accomplish the most important ends. This is the true notion of party. It imports combined action; but does not imply any departure from the great principles of truth and honesty. So long as the structure of the human mind is so varied in different individuals, there will always be a wide scope for diversity of opinion as to public measures; but no foundation is yet laid in the human mind for any material difference of opinion, as to what constitutes the great rule of justice.

"The course which was pursued by Judge McLean, was marked by the greatest wisdom and moderation. Believing that every public officer holds his office in trust for the people, he determined to be influenced by no other principle in the discharge of his public duties, than a faithful performance of the trust committed to him. No individual was removed from office by him, on account of his political opinions. In making appointments where the claims and qualifications of persons were equal, and at the same time one was known to be friendly to the administration, he felt himself bound to appoint the one who was its friend. But when persons were recommended to office, it was not the practice to name, as a recommendation, that they had been or were warm supporters of the dominant power. In all such cases, the man who was believed to be the best qualified was selected by the department."

Having illustrated his principles and character in private and professional life, in legislative, judicial and executive functions, Judge McLean was now called to exercise his capacity and attainments in the full maturity of their strength, in the highest judicial station. By the appointment of General Jackson in 1829, he was placed upon the Bench of the Supreme Court of the United States, having declined the War and Navy departments, which were tendered to him. The circumstances that accompanied this appointment evincing the confidential relations that existed between General Jackson and Judge McLean, notwithstanding their different sentiments upon some principles of public policy, are interesting and highly creditable to both parties. They have been thus related:

"On the arrival of General Jackson, after his election to the presidency, and when he was about selecting the members of his cabinet, Judge McLean was sent for to ascertain whether he was willing to remain at Washington. General Jackson having stated the object of the interview, the judge remarked, that he was desirous to explain the line of conduct he had hitherto pursued: observing, that the general might have received the impression from some of the public prints, that the Postmaster-General had used the patronage of his office for the purpose of advancing the general's election; but he wished him to understand, that no such thing had been done—and that had he pursued such a course, he would deem himself unworthy of the President's confidence, or that of any other honorable man. But that he was bound in candor to say, should he remain in office, he would not deviate in any respect

from the course he had pursued under Mr. Adams. That in all he had done he had looked with a single eye to the public interest, and that the same motives would govern his future action. That no power, which could be brought to bear upon him, would change his purpose. The general replied with warm expressions of regard and confidence, and wished him to remain in the Post-office department. He at the same time expressed regret, that circumstances did not enable him to offer the judge the Treasury department. The judge replied, that having held office under the late administration, he was delicately situated, and required no distinction in his organization ; that he would remain in the Post-office department on the terms stated, or retire, as might be deemed proper." It is well here to remark, that the Postmaster-General was not a member of the cabinet, until he was made so by General Jackson. Some of the personal friends of the judge, who had been designated for the cabinet, fearing that his course in the Post-office department might not harmonize with the one which the members of the cabinet felt themselves bound to take, had conversations with him on the subject : and finding his purpose not to be changed, a seat on the Supreme Bench was offered to him, which he accepted, and to which he was immediately nominated.

Judge McLean had received so large a share of public confidence in political life, and believing the people would sustain a public servant who honestly devoted his time and abilities to their service, that he left the department with great reluctance. He desired, above all things earthly, to see this great and glorious experiment of free government carried out in its true spirit. And this, he doubted not, would secure through all time to come, unbounded prosperity and happiness to those who were under its jurisdiction ; and that its moral power would so operate upon the civilized world, sooner or later, as to overturn the thrones of despotism, and introduce in every nation a national liberty.

At the January term, 1830, Judge McLean entered upon his duties as a judge of the Supreme Court of the United States. There is, perhaps, no station which calls into exercise, to a greater degree, the highest faculties of the human intellect. In that tribunal must be discussed not only points of judicial learning, but theoretic and practical questions of art, science and government frequently arise, their decision involving the present and future rights and interests of citizens and of states, the prosperity of commerce, the extent of legislative and executive powers, the stability of republican principles, and the progress of mankind towards peace and happiness. Judge McLean's eminent fitness for that station has been manifested by twenty-two years' service upon the Supreme Bench, in which period the jurisprudence of the country has been enriched by the diligent labors of his energetic and cultivated mind. By his early habits of labor and industry, his intellect was trained and his body inured to undergo exhaustion and fatigue greater than is imposed upon any other department of the government. Upon questions of commerce and constitutional law, his opinions have been distinguished ; evincing great powers of reasoning and investigation, they manifest a clear perception of the principles upon which the federal government was established, a profound veneration of their wisdom, and an inflexible firmness in their support.

The duties of the judges of the Supreme Court requiring the exercise of their functions not only in term at the capitol, but in their respective circuits, they may exercise an important influence upon the bar and upon the character of state jurisprudence. In this respect the influence of Judge McLean has been sensibly felt. His courtesy and patient attention to counsel, the dignity of his demeanor, and the uprightness of his conduct upon the bench and in private life, observed by the lawyers assembled at the state capitals, and by intelligent jurors and witnesses, have afforded an example which, throughout his circuit, is held in high estimation. Some of his charges to grand juries in the crises of important events, are regarded as the most able and eloquent expositions of the rights and duties of American citizens amongst themselves towards foreign nations and other states. The reports of the Supreme Court of the United States, and the reports of his decisions upon the circuit, form a monument of judicial fame, for which the honors awarded to the chief magistrate of the republic would be a free exchange.

The honorary degree of Doctor of Laws has been conferred upon Judge McLean by Cambridge University, the Wesleyan University, and by several other colleges and institutions of learning in the western and south-western states.

In December, 1840, the judge suffered the severest affliction to which any man can be subjected, in the loss of the companion of his youth and the mother of his children. She died as she had lived, an example of virtue and the triumphs of religion. In 1843, he married Mrs. Sarah Bella Garrard, daughter of Israel Ludlow, Esq., one of the founders of Cincinnati, a lady extensively known and admired for the graces of her person, the charm of her manners, and the accomplishments of her refined and cultivated intellect.

Judge McLean is tall and well-proportioned in person, his appearance indicating great vigor of body and intellectual energy. His habits of life have always been simple and unostentatious. Cheerful in temper, frank in manners, instructive and eloquent in conversation, he possesses, in rare degree, the faculty of inspiring confidence and warm attachment towards him in those who come within his influence, especially in young members of the bar, towards whom his kindness and courtesy has always been extended. A professor of the Christian religion, he has sought to regulate his public and private life in strict consistence with his faith; by diligence, justice, and charity, showing forth the consistence of religious principles and profession with the duties of a citizen, a lawyer, a statesman and a judge.

HON. ROBERT C. GRIER,

JUSTICE OF THE SUPREME COURT OF THE UNITED STATES.

THE life of a professional or literary man seldom exhibits any of those striking incidents that seize upon public feeling, and fix attention upon himself. His character is generally made up of the aggregate of the qualities and qualifications he may possess, as these may be elicited by the exercise of the duties of his vocation, or the particular profession to which he may belong. The subject of this brief notice may not form an exception to this general rule. His life has been one of hard study, from his youth; and since maturity, of laborious professional duty in the several relations in which he has been placed—and the high place to which he has attained, is evidence that these qualities afford the means of distinction under a system of government in which the places of honor are open to all who may be found worthy of them.

Robert Cooper Grier was born March 5th, 1794, in Cumberland county, Pennsylvania, where his father, the Rev. Isaac Grier, at that time resided; his mother was the daughter of the Rev. Robert Cooper of the same county, both of the Presbyterian Church. His father removed from Cumberland to Lycoming county, in the same state, in the fall of 1794, where he bought a farm and built a house on it, a little below the mouth of Pine Creek, on the west bank of the Susquehanna River: while resident there, he preached to three congregations for a very small compensation, deriving the means of his support mainly from a grammar-school which he taught, and the proceeds of his farm. He was a very superior Greek and Latin scholar, and every way competent as an instructor in those languages. And his amiable and excellent character, his benevolence and faithfulness as a pastor, gained for him the affections of all who knew him. Few men in a like sphere have been more beloved; and the many excellencies of the father's character were not lost upon the son. The latter, at the age of six years, began to learn Latin under the instructions of his father, and by the time he had reached his twelfth year, had mastered the usual course of Latin and Greek as they were then taught in ordinary schools. He continued his studies under his father's direction till 1811, when he went to Dickenson College, and entered the junior class half advanced. In the mean time, in 1806, his father had removed to Northumberland, Pa., having been invited to take charge of the academy at that place; and there also he served three congregations in his capacity of clergyman, but supporting his family mainly, as formerly, by the revenue derived from his labors as a teacher. His method of conducting the academy did honor to his talents; it grew under his care into a highly respectable establishment, and obtained a high character in that district of country. This reputation, and the thoroughness of the course of instruction pursued, was the means of elevating the academy into a college, under an ample charter, with power to confer degrees, in the usual form in like institutions. This enlargement called for more of the *machinery* of education than the institution had

before possessed ; and the library of a celebrated professor, who had lived the latter part of his life in Northumberland, and not long before had died there, together with his philosophical apparatus, were procured for the college.

In the meantime, the subject of this notice continued at Dickenson College. His aptitude for the languages and early instruction, had placed him far ahead of all competitors in that branch. He was so thoroughly master of the Latin, that he could write it with facility, perhaps as well as his mother tongue, and though indifferent to, and never troubling himself about college honors, his superior ability and acquirements were not questioned. His instructor in chemistry was Doctor Cooper, formerly a judge in the interior of Pennsylvania, then professor of chemistry in Dickenson College, and afterwards President of Columbia College, South Carolina, whither he had been invited by the state ; and known throughout the country for his extensive literary and scientific attainments ; and with whom our student was always a favorite. He graduated at Dickenson in 1812, but taught grammar-school in the college till 1813, when he returned to Northumberland, to aid his father in his college duties, now become onerous by the addition of numerous students, and the increasing duties of the enlarged institution.

Shortly after this his father's health began to fail. He became dyspeptic, and this disease continued to enfeeble and distress him up to the period of his death, which occurred in 1815. And few men have lived more beloved, or died more lamented.

His virtues and many excellencies of character did not perish ; they left their impress long on the community in which he had lived ; and have descended upon his son, a goodly inheritance, and one that passeth not away.

The well-known acquirements of the son, pointed to him, young as he then was, (not twenty years of age,) as the successor of the father, and he was accordingly, soon after the death of the former, appointed principal of the college ; and in this new situation, the extent and variety of his duties go to show how much may be accomplished, where resolution and will are combined with ability. He graduated the classes, delivered lectures on chemistry, taught astronomy and mathematics, Greek and Latin, and studied law, all at the same time.

His law instructor was Charles Hall, Esquire, late of Sunbury, Northumberland county, a gentleman eminent in the profession, under whom he was admitted to the bar in 1817, and commenced practice the same year.

His professional career, which has since proved so successful, commenced in Bloomsburg, Columbia county, Pennsylvania. There he continued, however, but a short time, for we find him settled in Danville, in the same county, in 1818 ; here his practice rapidly increased, and was soon extended to four or five of the surrounding counties ; and there he continued till he was appointed, by Governor Wolf, President Judge of the District Court of Alleghany county.

And here it may not be improper to state certain events, very well known and justly appreciated in the place and neighborhood where they took place, and which evince the excellent qualities of heart of the sub-

ject of our note. At his father's death, he found himself the oldest of many brothers and sisters, including himself, eleven in number, most of them young and helpless; and they, together with his widowed mother, were entirely dependent upon him for their support. Well and faithfully did he perform the duties that this condition of things called for. He possessed but little of this world's goods, but he had health, energy, talent, and a profession; but he bent himself to the task, and with these materials, fairly brought into requisition under the guidance of a sound and affectionate heart and a willing mind, he overcame all difficulty. His brothers were well and liberally educated, and settled in business or professions. His sisters lived with him till they were married; and his mother, till she died. As a son and brother, as well as in all subsequently formed domestic relations, he has been distinguished by the kindest and tenderest affections; and no man is more beloved by his family and friends. If it be true that the recollection of kind and benevolent actions warms the heart into peace with itself, then may our friend well rejoice in the past, and look to the future in the thankfulness of hope.

But to our narrative. His brothers and sisters being all married and settled in life, he had leisure to look out for himself; and in the year 1829, he married Miss Isabella Rose, the daughter of John Rose, Esq., a native of Scotland, who emigrated to this country in 1798. Mr. Rose had been admitted to the bar in Europe, but never practised, or sought practice here. He was a gentleman of education and accomplishments, and possessed of considerable estate. He bought a beautifully-situated farm on the banks of the Lycoming Creek, about two miles above Williamsport, in Lycoming county, upon which he resided till his death, and which now belongs to Judge Grier. This stream is celebrated for the fine trout with which it abounds, some distance from its mouth. And this we mention more particularly, as the judge makes an annual excursion to his farm and fishing ground, to enjoy his favorite vocation of trout fishing. He early became a disciple of Isaac Walton, and is faithful to his preceptor to this day. Nothing is suffered to interfere with this excursion: and when the month of June arrives, he is sure to find his way to the creek, with a few select companions, and all the necessary apparatus for catching and cooking his favorite fish, together with all manner of generous accompaniments to give zest to the luxury. This fishing ground is in the midst of the eastern ridges of the Alleghany mountains, into which the stream penetrates, and is surrounded with dense forests in their primitive state. The invigorating air of the woods, the beauty and wildness of the scenery, contrasted with that to which he is accustomed, the continued exercise and pleasure of the sport, sometimes not without adventure, all have their charm. And the judge returns to his professional duties, somewhat sunburned and weatherbeaten, to be sure, but with recovered powers, renovated frame, and clear head, ready for another year of labor.

His appointment to the District Court of Alleghany county was made May 4th, 1838. He removed to Pittsburg in October of the same year, and resided in Alleghany City till September, 1848, when he removed to Philadelphia, where he continues to reside.

On the 4th of August, 1846, he was nominated, by President Polk, one of the Justices of the Supreme Court of the United States, in the place of Judge Baldwin, deceased, and was unanimously confirmed by the Senate the next day.

The professional career of Judge Grier, while at the bar, was marked by high integrity of purpose, and fidelity to his client, qualities not unusual in the profession; but with him there was a benevolence not so universal, and generosity towards those who sought his services with but limited means of remuneration, that procured him many clients of this description; and for many has he gone through with repeated and arduous conflicts, without money and without price.

In the conducting of his case, he was not apt to trouble himself much about its mere technicalities, and despised all the tricks and catches of the law; he regarded mainly the principles involved in it, and arguing it upon this basis, his views were clear and logical, and always delivered with great distinctness and force.

While presiding in the District Court at Pittsburg, he had the confidence of all the bar, which was one of the ablest in the state. There was a deference paid to his decisions highly honorable, and an attachment to himself personally, not often found to exist in the same degree between the bar and the bench. If the cause before him had merits, its advocate had nothing to fear; if doubtful, he was sure of a fair and candid hearing; but if without merits, or if tinctured with fraud, it behooved him to take care of his case, for he was sure of neither aid nor quarter from the court.

With the jury his charge was everything: they had entire confidence in his integrity and learning, and knew that he only aimed to arrive at justice. Their verdict was responsive to his instructions. And when exception was taken to his charge or opinion, nothing was withheld by selfish regard to pride of opinion, or petty doubt as to the unnecessary action of a higher tribunal. His view of the law was fairly stated, and sent up as delivered, without addition or diminution, upon its own merits to stand or fall. All men are liable to err, but he who feels the consciousness of power within himself, fears not, but rather desires the examination of his opinions by those who may have the power, together with the responsibility, of sustaining or reversing them. Every judicial opinion affects the property, the reputation, or the person of some one, to a greater or less extent; and a faithful judge would rather rejoice in the detection of his error, than that it should be suffered to exist to the injury of another.

Since the elevation of Judge Grier to the Supreme Court, his judicial reputation has become the common property of the country, and is well established. His discussions bear testimony to this, and these are in the hands of every professional man. They disclose extensive learning and research, and a persevering seeking of the principle lying at the basis of the particular point under discussion—and this discovered, it is never lost sight of; and the conclusion arrived at is pronounced with the boldness of a fearless spirit, regardless of all consequences, save the one aim of bringing the truth to light, and giving effect to the law. His argument will stand the test of strict scrutiny; is clear in its statements and details, marked, perhaps, more by the

qualities of common sense, clearness and strength, than by any effort after ornament, though by no means deficient in illustration, which is readily supplied by his well-stored mind. The works which contain the evidence of Judge Grier's judicial reputation are accessible to every one—an examination of these would swell this notice far beyond the limits assigned to it, and would require more time and ability than the writer has to bestow. He leaves it, therefore, to abler hands.

His elevation to the distinguished place he now holds, has worked no alteration in the MAN. The same modest worth that marked his youth and maturity, continues to adorn his riper years. The same kindness of disposition to all, the same attachment to friends, and affection for those dependent upon him: a lover of his country, and, of the very necessity of his nature, a religious man, and therefore a Christian—long a member of the church in the principles of which he was educated, and some time participating in its government—but liberal in his views, regarding the spirit rather than the letter of his creed. Happy in his domestic relations, in the affections of an amiable and excellent wife, in the love of his children, in the attachment of his many friends, and highly honored, as he is, by his country—his life affords an example of the triumph of right principles, unshrinking integrity, persevering industry, and fidelity to truth and to himself, over difficulties of formidable character, and from which a mind of less energy would have shrunk.

“Heaven does with us as we with torches do,
Not light them for themselves: for if our virtues
Did not go forth of us, 'twere all the same
As if we had them not.”

HON. W. F. BULLOCK, OF KENTUCKY.

BIOGRAPHICAL sketches of those who have attained merited distinction in American law, have a charm and force in them, that commend them to every sound thinker. We naturally feel an interest in tracing the footsteps of those who have reached elevated positions in public confidence, and have wielded their influence for the public good; who, loving truth and integrity for their own sakes, have undeviatingly followed their dictates, no matter what the personal consequences might be. Records of this kind are calculated to raise the ministrations of law in public estimation, and are guides for the junior members of the profession, in their pursuit of reputation, distinction and position.

The Hon. William F. Bullock, whose career we are about to sketch, has long been conspicuous in a corps of celebrities, second to none in this Union in point of ability and fame. The Kentucky bar has long enjoyed a high reputation, and its members have largely influenced the character, not only of the Great West, but of the Union. The mother of most of the western states, she can point to her deeds in the National Councils for the past fifty years, and her sons glory in the fame of her Breckenridges, Nicholas, Daviess, Clay, Rowan, Barry,

Crittenden, Sharp, Boyle, Owsley, Mills, Trimble, Bibb, Robertson, and a host of others, who contributed to the imperishable legal renown of the state.

For a long period of time, in the early history of Kentucky, Lexington enjoyed a large portion of the renown of the state. That city is the centre of one of the richest agricultural districts in the western country. The first newspaper printed west of the Alleghany mountains was published in Lexington; and Transylvania University, for a number of years the most renowned institution in the great valley, was located there. From that venerable hall of learning, Kentucky scattered, with a profuse hand, her intellectual treasures over the West and South. While Transylvania University was under the auspicious administration of President Holley, it is doubtful whether any city in the United States possessed a larger share of intellectual activity than Lexington. A love of literature and science pervaded all ranks; education flourished in all its departments; the general pursuit of knowledge which characterized the people, enabled them to support for many years the finest public library in the West, to which was attached reading rooms, containing all the best periodicals in the English language. The great genius of Matthew Jouitt, one of the noblest artists upon canvass that this country has produced; and the cultivated taste, public spirit and enterprise of John D. Clifford, commanded the prosperity of the fine arts in Lexington at this period. Philosophy, literature, classical learning, science and art, went hand in hand; and Lexington was the glory, the pride, and the cynosure of the Great Valley. That was the golden age of literature, science and art, in the West.

In addition to the resources of intellectual growth and activity already mentioned, Lexington maintained, for about fifteen years, the ablest, most prosperous and successful medical school in the western country. The renown of her medical teachers was co-extensive with the Union, and none of the successors of this school have ever rivalled the ancient fame of the medical department of Transylvania University. The reputation of the medical school finally overshadowed the fame of the University.

Nor were the interests of a Law School neglected in the midst of these intellectual energies: but one was established as a department of the University, which speedily attained a high rank. The genius and abilities of the bar of Lexington were illustrated by Henry Clay, William T. Barry, William Blair, Jesse Bledsoe, Joseph Cabell, Breckenridge, and others, who, with less extended fame, enjoyed a high reputation at home.

It was in the midst of these intellectual energies, that the subject of the following sketch first saw the light, and to his career we now direct the attention of the reader.

William F. Bullock was born on the 16th January, 1807, in Fayette county, Ky., of which Lexington is the county seat. At an early period he exhibited a fondness for study, and such was the proficiency attained at a country school, that he entered Transylvania University, and graduated in 1824, when he was but seventeen years of age. The writer of this sketch knew him at the time of his matriculation in the University. No student ever entered those classic halls with a higher repu-

tation; and his devotion to study, his modesty and good habits, enabled him to add largely to his youthful fame. At the time of his graduation, he was esteemed as second to none of the distinguished *élèves* of Transylvania University, then in the zenith of her renown. As an orator, he was unrivalled in that institution; and such was his great distinction, that upon the return of Mr. Clay to Kentucky, after his vote for Mr. Adams, when his congressional district determined, in its own language, "to speak its instructions to Henry Clay, in a language that could neither be misunderstood nor mistaken," the youthful orator of Transylvania was selected to deliver the speech, welcoming the patriot of Kentucky to the hearts of those who had long entrusted their political interests to his keeping. It was an occasion of deep interest; it drew people from various parts of the state, and an immense assembly of Kentuckians, and citizens of other states, was gathered to receive the illustrious sage of Ashland. For the time being, the eyes of the nation were upon Lexington. The traducers of the fame of her most illustrious son looked on the scene with fear and trembling, while the friends of the administration of Mr. Adams looked to it as a source of hopeful energy and triumph. In the midst of all these great interests, in the presence of that great assemblage, indeed, of the American people, the young orator of Transylvania addressed a speech of welcome to Henry Clay, that was worthy of the occasion. It was an effort of eloquence of which any son of Kentucky might well have been proud. Even during the mighty response of Mr. Clay, whether its eloquent tones were moving the best feelings of our nature, or its withering scorn was hurling its defiance and its anathemas upon the heads of those whose machinations were struggling for his ruin, the calm and elevated eloquence of the youthful orator worked its way into the memories of the people, and placed him conspicuous among the speakers of Kentucky.

In 1828, Mr. Bullock moved to Louisville, Kentucky, and commenced the practice of law, in the midst of as formidable competition as could be found in the state. But the same habits that had given him such enviable distinction in the curriculum of Transylvania University, soon attracted attention to him in his new sphere of duty, and gave him high rank among the able men who adorned the Louisville bar.

After a probation of ten years at the bar, the public voice called him to a seat in the Kentucky Legislature. He was a member of the House of Representatives, in 1838, 1840 and 1841, and was the author of some of the noblest monuments of Kentucky legislation.

To his well-directed efforts, efforts that never knew fatigue while the cause needed exertion, Kentucky is indebted for her common school system. He introduced the bill into the legislature, and by his eloquence, his entire mastery of the whole subject, and his untiring labors, both as the eloquent exponent of the cause before the representatives of the people and the profound writer for the press, he so deeply engraved the merits of the common school system upon the public mind, that it now defies all the powers of its enemies. Various efforts have been made to cripple this system, and the most formidable was the attempt in 1843 to cancel the bonds of the state,

which had been given to the Board of Education, on account of a loan of the money that had been appropriated to the common school system. The original appropriation was eight hundred and fifty thousand dollars, a portion of the dividend paid to Kentucky from the surplus revenue of the general government. This sum was loaned to the state on her bonds. In 1843, an attempt was made to cancel these bonds, by which the common school system would have been utterly destroyed. Mr. Bullock was not at that time a member of the legislature, but he earnestly appealed, through the press, against this great outrage. While the danger lasted he was always at his post, battling for the cause that had enlisted his zeal and his best abilities. To his noble exertions, his thorough understanding of the subject, and his persuasive eloquence, Kentucky is indebted for her common school system, a system that is scattering innumerable blessings among the rising generation. A profound debt of gratitude is due to Judge Bullock for his services in the cause of education.

Nor were the philanthropic exertions of Mr. Bullock, while he was in the legislature, confined to the cause of popular education. When efforts were first begun in Kentucky for an improved management of the insane, those efforts found in him a zealous and intelligent champion. In 1842, he produced a profound impression upon the public mind, by a report which he submitted to the Kentucky legislature on the management of the insane. He accompanied the report with a speech which commanded the attention of the state, and to his exertions the triumph of the cause is due. Kentucky has been exceedingly liberal since that time, in her appropriations to the insane; and the lunatic asylum now compares for excellence with any in the United States. To Judge Bullock is due the honor of the improvements in Kentucky, in ameliorating the condition of the insane. Although a feeling of animosity existed at the time between Lexington, where the asylum is located, and Louisville, with whose representation he was connected, he nobly spurned all local and selfish considerations, and advocated the philanthropy for its own sake. He did for Kentucky what Pinel did for France.

Another crowning glory of Judge Bullock's legislative career, was in his successful exertions to procure an endowment from the state, for an institution for the education of the blind. His eloquent advocacy of the cause, his zeal and energy, were crowned with success; and, in 1841, the legislature of Kentucky appropriated ten thousand dollars towards establishing a school for the blind. This is the favorite eleemosynary institution in Kentucky. The legislature has been liberal in its endowments for its support, and the institution has resources now amounting to some twenty-five thousand dollars for the erection of buildings and furnishing the school. In one respect, the Kentucky school for the blind is in advance of every other in the country. In response to an appeal on the part of the trustees, the legislature gave that body the power to confer upon all meritorious graduates of the institution a copy of the Bible and of the Constitution of the United States, printed in raised letters. The state deserves much credit for this noble munificence.

Judge Bullock was one of the original Trustees of this institution,

and has been one of the most active and useful members of the Board to the present time. He has been President of the Board of Trustees from its first organization until now.

These are the monuments of the legislative career of Judge Bullock, and his friends point to them as the characteristics of the man. They have conferred unnumbered blessings upon Kentucky, the effects of which will go on increasing from year to year. To be the acknowledged author of the Common School System of Kentucky, of the vastly improved means which now exist in Kentucky, by law, for managing, protecting and curing the insane, and of the institution for the education of the blind, is an honor of which any man might well feel proud. His legislative career is a model for those who wish to confer real blessings upon the commonwealth, and to obtain a good report for themselves.

After the close of his legislative career, Mr. Bullock again resumed the practice of his profession. In 1846, he was appointed to the Bench, as Judge of the Fifth Judicial District. The appointment gave general satisfaction. His high legal reputation, his urbanity of demeanor, his decision and firmness, and his universally acknowledged integrity in all things, gave an earnest of a successful career in this new sphere of usefulness which has been fully redeemed by his judicial course. There is no court in Kentucky that sustains a higher character, nor is there one that commands a greater degree of confidence. The interests committed to this court are of much greater magnitude, than are to be found in any other judicial district in Kentucky. Louisville, the commercial emporium of the state is in the circuit, and the most important questions of commercial law are frequently presented for adjudication. This court, also, has criminal jurisdiction, and the criminal docket is the largest and most interesting in the state. This complication necessarily requires a Judge of ability and learning. The judiciary of Kentucky has been adorned with names that would have commanded respect any where, but no one has ever attracted a larger show of public confidence and respect than Judge Bullock's. A striking evidence of this fact is furnished by the election of judges by the people in the sixth year of Judge Bullock's judicial life. The new constitution of Kentucky requires the election of judges by a popular vote; and in 1851, the first election took place. The district had been so changed, that but one of the former counties in Judge Bullock's district remained, and three new ones were added to it. In this state of things, a competitor for the office presented himself under auspicious circumstances for success. There were portions of the district in which this gentleman had formerly commanded an extraordinary popular vote, and he was supposed to be much more favorably known in the new portions of the district than Judge Bullock. But the election showed the deep hold that an upright and independent judge has upon the public affection. Notwithstanding the popularity of his talented opponent, Judge Bullock was elected by a large majority. This election is one of the many gratifying evidences that prove that the people are capable of selecting the proper characters for judicial stations.

In the performance of his judicial functions, Judge Bullock knows no authority but duty to law and justice. He is singularly free from all

those elements that narrow, warp, and bias the mind, and he holds the scales of justice with as perfect an equipoise as is possible to any human being. He knows neither fear, favor, nor affection, and can neither be cajoled nor denounced into doing judicial wrong. He is clear in his judgment, prompt in decisions, and firm and unwavering in the discharge of every duty. The dignity of the court is firmly and steadily maintained, and throughout the district entrusted to his care: order, based upon law, reigns supreme. The firm, independent, and conscientious discharge of duty has given him a strong hold upon the popular sentiment; and the fact that such discharge of judicial duty is the surest road to popular favor, is full of promise for the perpetuity of our free institutions. An unawed, unswerving judiciary, is the bulwark of freedom.

In 1849, the Trustees of the University of Louisville elected Judge Bullock to the chair of "The Law of Real Property and the Practice of Law, including Pleading and Evidence," in the Law Department of the university. The preceding sketch of the characteristics of this distinguished jurist has prepared the reader for the history of his career as a teacher. He is highly appreciated by his eminent colleagues in the school, and commands the respect and affection of his classes. He has greatly contributed to the success of this department of the university. Profoundly versed, as Judge Bullock is, in the science of law, with a mind singularly clear and full, possessing great powers of elocution, perspicuous and direct in his teachings, with an enlarged and matured experience in the practice of law, he could not fail to be a most impressive and popular teacher.

We have thus briefly sketched the character and career of the Hon. William F. Bullock, of Kentucky. We have known him from his youth upward, and feel no ordinary gratification in recording his prosperous, useful, and animating history. In all his various responsibilities, he has ever been true to the highest interests of humanity, to the strictest integrity and to the holiest dictates of justice. In his public and private life he has lived as Milton did—

"Ever in the great taskmaster's eye."

JOHN DENNIS PHELAN,

ONE OF THE JUDGES OF THE SUPREME COURT OF THE STATE OF ALABAMA.

THE subject of this Memoir was born in the town of New-Brunswick, in the state of New-Jersey, on the 23d March, 1809.

His father was an Irishman, of good reading and intelligence; a Queen's county man, of the *old Milesian stock*, as the name plainly indicates, to any one acquainted with Irish history.

His mother is of English descent. Her parents were Boston people, of the name of Ford.

About the close of the war, in the year 1815, John Phelan, sen., then Cashier of the Bank of New-Brunswick, fell into pecuniary diffi-

culties, from unfortunate speculation in real estate, and left for Baltimore, where he remained with his family about a year. From this place he removed to Richmond, in Virginia, and, in conjunction with a Mr. Dillon, commenced a soap and candle manufactory; a business to which, in early life, he had served a partial apprenticeship. This did not succeed: and after a trial of about eighteen months he and Dillon, taking with them a good set of candle-moulds, set out for Huntsville, in the northern part of what was then the Alabama Territory, and one of the remotest settlements of the West, at that time—1817. Here they conducted, for several years, as partners, the business of grocers and chandlers, and for a while things went on prosperously. Mrs. Phelan, with her children, of whom John D. was the oldest, then a boy a little over nine years old, joined her husband at Huntsville, in the fall of 1818.

From this date until the year 1824, John D. was occasionally at school; but he was engaged during most of the time in attending to the grocery, and in making candles, which art was taught him by his father and Mr. Dillon. Some of his old playmates, about Huntsville, should they chance to see this, will remember how they used to help him sometimes to “fill the moulds,” or “draw the candles,” to get him off duck-hunting or partridge-netting on a Saturday. “Old Capt. Phelan,” as he was called about Huntsville, was too convivial in his nature to keep a grocery. The end was pecuniary ruin. All he had was seized and sold by the sheriff. His wife and daughter had to gain their support by the needle, and John D. got to be a store-boy with Cox & Lewis, merchants of Huntsville, about the fall of 1824.

Shortly after this time, Dr. Miles S. Watkins, of Huntsville, proposed to take him and educate him, which offer was gladly accepted. He was accordingly sent to Greene Academy, at Huntsville, then in charge of Mr. Mills, where he remained till about June, 1827, at which time he was sent to the University of Nashville, where he remained until October, 1828, when he graduated with honor. During his stay at Nashville he formed the personal acquaintance of Gen. Jackson, and attracted the favorable notice of that remarkable man, as was shown by subsequent events. Returning from Nashville, in the fall of 1828, he was next sent, by Dr. Watkins, to study law under the brother-in-law of Dr. W., Wm. Leigh, Esq., (now Judge Leigh,) of Halifax county, Virginia. Here he remained prosecuting assiduously the study of the law, until the fall of 1830, at which time he procured a license from the judges of the Court of Appeals, of Virginia, and returned to Alabama.

Upon his return to Alabama, although it was kindly tendered, he would not receive any further pecuniary assistance from his good friend, Dr. Watkins. Being in actual want of the means of subsistence, and seeing no prospect in that quarter of gaining it by his profession, he applied for and obtained a situation as private teacher in the family of Dr. Alfred Moore, of Madison county, Alabama. It was in this family that he first formed the acquaintance of the lady he afterwards married: Mary Ann Harris, a niece of Dr. Moore, and daughter of Gen. Thomas K. Harris, sometime member of Congress from Tennessee. This employment he found too exhausting for his delicate health and ardent

temperament. The destitute condition of his family was a source of continual distress of mind. To pay the rent of a small house, and to find food and raiment, with all the assistance he could afford them, was as much as they could do for several years. At the close of the year 1831, dividing his income from teaching with his family, he set out for Memphis, in West Tennessee, with the intention of remaining there to practice his profession. It did not on examination please him as a location, and he determined to make a bold stroke and go to New-Orleans. He sold his horse, and with about 180 dollars in money in his pocket, he proceeded to New-Orleans. Here his hopes and expectations all failed him. An uncle he had in New-York, who had the ability to promote him in business, from some caprice refused to answer his letters; some old acquaintance from up the country, who were established there in business, gave him the "cold shoulder;" his practice amounted to but a trifle, and his money soon gave out. This was the darkest time with him. He has been heard to say, speaking of this time, "I had three ideas then to possess me. One was simply to give up to be a vagabond; one was to forget my family and go to France; the third, which galled me more than any other, was to beat back to Madison; and I believe the vagabond idea would have gained the day, but for thoughts of Molly Ann and my mother." After remaining in New-Orleans about four months, in the year 1832, he borrowed money to pay his way back, and returned to Huntsville. But law business there he found as dull as ever. And many a time did he grieve in secret that the partiality of friends had plunged him into a profession in which it was impossible for any sort of energy to lay forcibly hold of a living. The carpenter, the mason, the farmer, can do this: but alas, for the young lawyer, he must sit in the office and eat his heart up with *waiting*. It is a terrible ordeal where *waiting* is *energy*.

Not long after he returned to Huntsville, the editor of the Huntsville "*Democrat*," a leading public journal of this state, died, and by the assistance of friends the situation was procured for young Phelan. In this new vocation he soon attracted public attention as a bold and vigorous political writer. His practice as a lawyer began now also to increase. He wrote for the *Democrat* about four years, during a period of great political interest: President Jackson's second term, and pending the election of Mr. Van Buren.

In the year 1833, he became a candidate for representative from the county of Madison: and after an animated struggle with very popular men, was elected one of five representatives, to which that county was then entitled. An anecdote in this connection will serve to illustrate a trait of his character. "The first gathering I went to"—he would say, when speaking of that canvass—"was at Cloutdown, and I found that all the old candidates were for ground talking, but did not care about making speeches. I knew that was my only chance. So I said modestly, to one or two about the grocery, where they were all drinking and going on, that if I could get the attention of the people, I would like to speak. Nobody noticed me. Thinks I, this won't win. There was a big fellow named Bill Sartain, a great bully, that had the end of his nose bit off, who was then in the grocery half slewed, making a great fuss, and bantering any one to dance with him for a treat. I stepped

in—says I, Sartain, I am a candidate here, as little as you may think of it, and I want to make a talk to these people; now, if you'll engage that if I beat you by the judgment of this crowd at a jig, that you'll fix me a box at the door, and make them give me their attention while I speak to them; I'll go in with you, and treat to boot. Good, says he; spread out, men, and make room for me and the little squire. They made a good large circle, and several fell to patting '*Reuben Reed, the cedar breed*,' and Bill Sartain and I went at it. I don't know whether I did outdo him or not, although, as most of my friends understand, I am not bad at "double trouble" myself. However, the crowd gave it in my favor, and after a big laugh and a treat, Bill Sartain was as good as his word. He got me a box, and I got an attentive hearing, and made a pretty good speech about the "Union," and "Nullification," and the "Monster," which were the themes of that day. In a word, I got a breeze in my sail by my jig with Bill Sartain that finally carried me safe into harbor." He was elected, but took sick in October, and had to resign his seat. The next year, 1834, he was a candidate again, and was again elected; and in the session of the Alabama legislature of 1834, was regarded on all sides as a leading member. Besides taking a full share in the political discussions of that session, which were animated, he introduced and supported in a speech prepared with great care and labor, a bill for the establishment of the penitentiary system in the state. The measure at that time failed by a few votes, but the system was subsequently adopted, and Mr. Phelan was at all times its active promoter.

In the year following, 1835, he was married to Mary Ann Harris. He was this year again elected a member from Madison, for the third time. At the opening of this session he was put in nomination for the speakership, by the friends of Mr. Van Buren, against his colleague, James W. McClung, Esq., a gentleman of great popularity and talents, a relative and supporter of Judge White, who was elected over him by two votes. During the course of this session, Mr. P. introduced and supported in a speech, resolutions sustaining the course of President Jackson in the controversy with France about the indemnity.

In the year 1836 he was not a candidate. His recent marriage, connected with the low state of his finances, made it improper in his judgment to prosecute further at this time any political aspirations. During this year he was invited by General Cass, Secretary at War, at the instance of the President, who was his personal friend, to be one of the visitors to West Point.

At the session of 1836, he was elected by the legislature, Attorney-General of the state.* He then moved from Huntsville to Tuscaloosa, where he joined Harvey W. Ellis, Esq., a leading lawyer of that place, in the practice. After filling the office of Attorney-General for two years, he found that its labors conflicted so much with his civil practice, which was more lucrative, that he resigned the office.

* He was offered in the course of this year, by the President, the appointment of District Attorney of the United States for the northern district of Alabama, which he declined.

At the session of 1838, the legislature adopted joint resolutions, submitting to the people of Alabama the question, whether they would have a convention of the state or not. The object of this was believed to be, mainly, to remove the seat of government from Tuscaloosa, and to get rid of the restrictions upon the creation of banks, contained in the present constitution. Mr. Phelan wrote and published a series of numbers, under the signature of *Publius*, discussing at considerable length the questions involved, mainly those relating to banking. These numbers were so highly thought of by those opposed to the call of a convention, that they were published in a pamphlet form, and circulated extensively through the state, and are believed to have had no inconsiderable effect in defeating the call for a convention at that time. In the following year, 1839, he was urgently solicited, by gentlemen of both parties, to become a candidate. He did so, and was elected by a large vote, although Tuscaloosa was a whig county, and he was a democrat, warmly advocating his principles throughout the canvass.

At the session of 1839 he was elected Speaker of the House of Representatives without opposition.

At this session there was an animated contest, on the subject of extending relief to the debtors of the State Bank and branches. The speaker acted with that party which opposed all schemes of unreasonable indulgence, and a vast amount of public money was doubtless saved by the determined opposition of the minority of that session to wild schemes of relief. This was just after the pecuniary revulsion of 1837. He foresaw, from the signs of the times, that things were coming to that crisis soon which would bring the "pledged faith and credit" of the state into great peril. It then began to be whispered, that the people could never stand to be taxed, to repay the millions which had been borrowed to bank upon, and then wasted and squandered by a few. Taking his farewell address to the house as the occasion, he drew the public attention to this subject. Now that the crisis has passed in Alabama, it deserves to be remembered, that John D. Phelan, in 1839, held this strong language.

The next year, 1840, he was a candidate again, but only in compliance with the wishes of his political friends, who needed his services for the common cause. He took the field, and labored actively and earnestly in favor of the "Sub-Treasury," and against "Log Cabins and Hard Cider;" but it was all in vain. He and his whole ticket were beaten by a majority of more than 200.

In 1839, he was offered without solicitation, by Gov. Bagby, the appointment of Chancellor of the Middle Division, which he declined. In 1841, a vacancy occurred in the Judgeship of the First Circuit; this he applied for, and obtained. It was conferred upon him by his friend Gov. A. P. Bagby. Want of robust health and the severe labors of the practice, chiefly led him to seek a seat upon the Bench. He removed shortly after his appointment to Marion, in the County of Perry, where he now resides. He was elected Circuit Judge by the legislature of 1841, without opposition, for six years. At the expiration of his term, he was re-elected for six years more. In 1849, the constitution of the state was so changed, as to make the Circuit Judges elective by the people. He was a candidate for re-election, and was again

elected over a very able and popular competitor. After having served the country acceptably as a Circuit Judge, by the judgment both of the bar and the people, for eleven years, he was, during the session of the legislature of 1851-2, elected a judge of the Supreme Court of Alabama.

Judge Phelan is now in his 43d year. He is the father of eight children, now living ; five sons and three daughters. His pecuniary means, the fruit entirely of his professional labors, and a small property he received by his wife, is enough for competence and independence.

In person, he is about five feet ten inches in height, erect and slender. He wears usually a grave and thoughtful look, but has a strong relish for wit and humor, and was, when a younger man, rather remarkable for his convivial powers. To this day, when there are young people at his house, if the music can be had, he will have a dance, of which he is very fond ; especially the Old Virginia "scamper down" reel. He relishes besides a good song, and occasionally will sing one of the old style, such as "*Tullochgorum*," "*My boy Tammy*," or "*A man's a man for a' that* ;" and was greatly pleased when he learned that "*Comin' thro' the rye*," as sung by Jenny Lind, had created more sensation than "*Casta Diva*."

We close this memoir by adding, that Judge P. is a communicant of the Episcopal Church ; and esteeming, as he does, the character of a true Christian gentleman superior to every other on earth, he endeavors (the writer thinks) to meet the demands of that high calling in all things. If any man will fill that character :

"He holds a rank no king can give ;
No station can disgrace."

HON. SAMUEL CHURCH,

CHIEF JUSTICE OF THE SUPREME COURT OF CONNECTICUT.

THE Hon. Samuel Church, the second son of Nathaniel Church, Esq., was born at Salisbury, Connecticut, on the 4th day of February, 1785. He is a lineal descendant of Richard Church, who was a relative of Colonel Church, so well known in the history of the French and Indian wars.

Judge Church graduated at Yale College, in 1803, at the early age of eighteen, and soon after commenced the study of law at the Litchfield Law School, then conducted by Judge Reeve and James Gould, Esq., and was admitted to the bar in September, 1806.

The subject of this sketch had neither fortune nor patronage, and was compelled to commence the practice of law in his native town, and build up a reputation for himself under circumstances little flattering to the hopes of a young aspirant for distinction, in a profession at all times arduous, and, at the period to which we allude, distinguished by some of the most eminent men who have ever lived in New England : a period when the court-room at Litchfield was graced with the presence of such men as Roger Meriot Sherman, David Daggett, James

Gould, John Allen, and a host of others, who have left their impress upon the history of their native state.

Trials before justices of the peace were then more frequent, and of more importance to the young lawyer than now, and presented during the earlier part of his practice almost the only field on which he could find an opportunity to prepare himself for the more elevated sphere of a practitioner in the higher courts.

These inferior courts were not at this period always conducted with the decorum observed in courts of a higher jurisdiction, and often led the young lawyer into uncourteous habits of discussion and professional department, which, in too many instances, followed him through life.

This species of practice also tended, of course, to loose habits of thinking, and consequently to a careless use of language.

It has left, however, no such traces upon the mind of the accomplished jurist whose name stands at the head of this article.

At this early period of his life he prepared and tried every cause, however trifling the amount of pecuniary interest involved, investigating the facts and the principles of law applicable to them, with the same assiduity which he subsequently bestowed upon the most important cases in the higher courts.

Though residing many miles from Litchfield, where the courts of higher jurisdiction were held, he was a constant attendant upon the sessions; and, whether engaged as counsel or not, observed the progress of every case, and took careful notes of all the points discussed by counsel, with all the rulings of the court, whether interlocutory or final: a practice to which he was much indebted during the later period of his professional career.

His first introduction into political life was as a member of the convention, in 1818, by which the present constitution of Connecticut was framed, and for which he was an eloquent advocate, both in the convention and before the people to whom it was submitted prior to its adoption.

He was seven or eight times a member either of the Senate or House of Representatives of Connecticut, at a period when the power of appointment of almost all the public officers of the state was by the constitution lodged with the general assembly.

While in a minority as a member of the republican party in the state, he always claimed for the members of that party a fair apportionment of the public offices; although it cannot be denied that the majority, in those times of high political excitement, did not exercise a large measure of liberality towards their opponents.

In asserting this principle, Judge Church has always observed a uniform course, insisting upon a fair distribution of public patronage, as well when his own party was dominant as when it was in the minority.

While in the legislature he never gave his vote to dismiss or exclude a well qualified political opponent from any office within the gift of the General Assembly, but often voted to retain or appoint those whose political views were adverse to his own.

The subject of this notice seems to have had from early life an unconquerable distaste for political preferment, dividing his time between

the arduous pursuits of his profession, and the charms of the society-circle, to which nature and inclination have so peculiarly adapted him. Although more than once nominated by his political friends to represent the district in which he lives, as a representative in the Congress of the United States, he has always peremptorily declined.

For ten or eleven years, he was Judge of Probate for the district of Sharon, and during the same period, Attorney for the State for the county of Litchfield, both which places he held undisturbed by party influences, until he resigned them, upon being appointed a judge of the Superior Court.

In 1830, he was associated with the late Judge Bristol, in revising and reporting a new criminal code for the state. Their report, with few unimportant modifications, was adopted by the General Assembly, and still remains the basis of the criminal jurisprudence of Connecticut.

Judge Church has never favored the popular notion of a codification of the entire laws of the state, but has always deemed it better to introduce improvements into the laws gradually, and only as they seemed to be indicated by necessity or convenience; and he has from time to time suggested such changes, and procured their adoption by the legislature. Among those changes which may be traced to his hand, are to be mentioned our excellent statute of set-off—the law increasing the jurisdiction of Justices of the Peace—and the statute to prevent vexatious and unnecessary costs. (See Revised Statutes, sec. 153, page 89; also sec. 150, page 88.)

He also advocated, within certain limits, the statute permitting persons interested in the event of a suit to testify; but has always been opposed to extending the privilege indiscriminately to parties in court, and regards this innovation upon the English rule, as a great defect in our law of evidence. (See Revised Statutes, sections 82, 83 & 84, pages 72 & 73.)

He has also advocated the recent statute, giving the right, in civil actions, to either party peremptorily to challenge two jurors. (See Preface to the Revised Statutes, page 4.)

In May, 1832, upon the retirement of Chief Justice Hosmer, he was appointed one of the judges of the Superior Court. This was an appointment not only unsolicited, but not even anticipated, by himself; and came from a legislature upon whose political sympathies he had no claim.

In May, 1847, he was appointed Chief Judge of the Supreme Court of Errors of the state, by a vote almost unanimous.

As a lawyer, he was indefatigable in the preparation of a cause, and on the trial was remarkably astute and ready in the examination of witnesses. His mind was always available, and could turn itself with admirable tact to meet sudden and unexpected emergencies.

His powers as an advocate were of no ordinary character. The lively play of his wit, the strength of his conceptions, and a happy method peculiar to himself, of combining and presenting his thoughts to a jury, in a style at once chaste and intelligible to the plainest understanding,—and above all, a fervid earnest manner,—made him, on all occasions, a formidable opponent.

But as a judge, his character and talents shine with peculiar lustre. His courtesousness, his kindness to the younger members of the bar, his readiness in possessing himself at a glance of the strong points in cases intricate and difficult to be grasped at by ordinary minds, his freedom from prejudice and his undisguised abhorrence of fraud, have secured for him, at the same time, the affection and the reverence of the legal profession throughout the state.

His written opinions, which make up so large a proportion of the judicial decisions of Connecticut, will constitute a monument to his memory, chaste, simple, yet enduring as the institutions with which they are incorporated.

There is at the same time a terseness and a scholar-like finish to these opinions, which it is believed is rarely equaled in the American books of Reports.

Such is the brief outline of the life and characteristics of a man who has always loved the shades of retirement, and who has come before the public eye only in obedience to the call of his fellow citizens; who has spent his best days in perfecting the laws of his native state, and softening their more rigorous features, without taking away anything from their authority.

That his life may be long protracted, and cloudless to the last, is the wish of the large circle of friends and acquaintances who have known him only to esteem and honor him.

GENERAL JAMES R. LAWRENCE,

OF SYRACUSE, NEW-YORK.

It is a proud distinction of our republican institutions, that to every class of citizens they furnish incitements for the exercise of talents, conferred upon them as the boon of Providence. While the prize of excellence eludes the grasp of the indolent and the unambitious, it is reached by the truly laborious and enterprising aspirant. Resolute and appropriate effort seldom fails both to redeem from the gloom of obscurity, and to perpetuate the advantages of an honorable position. This is true, as relates to professional life. No appliances of overgrown wealth, nor the prestige of ancestral renown; neither gigantic powers of intellect, nor marked superiority of early education, can be deemed indispensable to professional eminence. It is oftener attained by means of an indomitable energy, coupled with perseverance, before which obstacles to advancement flee away. *Quisque suæ fortunæ faber.* It encourages and refreshes; it stimulates the mind to deeds of nobleness, to contemplate examples of those who have so fought life's battles as to encircle their brows with the wreath of victory. The annals of jurisprudence present the names of individuals, the story of whose distinction and fame is, for the greater part, but the daily record of progress as the result of a manly resolution to excel, prompt-

ing to a vigorous and untiring discharge of professional duty, and securing the meed of general approval.

James Robbins Lawrence was born at Norfolk, Litchfield county, in the state of Connecticut. He was a grandson of the Rev. Ammi Richamah Robbins, for more than half a century the pastor of the Congregational church in that town. When but five years of age, he, with his father, Grove Lawrence, Esq., removed from Norfolk to Oneida county, in the state of New-York. His early education was received at "Hamilton Oneida Academy," an institution then rather celebrated for imparting sound and thorough instruction, especially in the department of classical literature; and, soon after his leaving it, incorporated under the name and style of "Hamilton College." Of this college he has for a series of years been a trustee towards it, as perpetuating his *Alma Mater*, entertaining feelings of filial attachment and interest. To Union College he is indebted for the honorary degree of A. M. He began the study of the law under Medad Curtis, Esq., at Onondaga Hill. The work of preparation he diligently plied; and, soon after reaching his majority, was admitted to the bar. Establishing himself at Camillus, in the county of Onondaga, he there commenced his legal practice. His talents and attainments caused him to be early known and respected in the walks of his profession. In other spheres also, his way was rapid to confidence and favor. In 1825, he was chosen to represent the people of his county in the New-York Legislature. Of the assembly for that year, though the youngest, he was an efficient and useful member. He then and there showed traits for which, in after periods, he became yet more strikingly distinguished; and at the close of the session, returned to his constituents and his home, with a reputation enhanced by a diligent and successful discharge of legislative duty.

Under the old *regime*, Mr. Lawrence held the military rank of Brigadier General of Cavalry, the brigade extending over several of the interior counties of the state. Though ever attentive to the calls of his profession, the talents of General Lawrence have been often placed in requisition by political changes and fluctuations. The electors of his county, in 1838, and in the two years succeeding, returned him to the state legislature. During those years he was chairman of the judiciary and other important committees, and uniformly maintained a prominent position. Among the galaxy of distinguished Whigs, associated with him on the floor of the assembly—without disparaging or withholding from others the just meed of praise—he was ranked as *primus inter pares*. None were more ready or effective in debate; none more abounded in enlarged and patriotic views; none were more attentive than he to various details of legislative obligation. Concerning him, Judge Hammond remarks, in his "Political History of New-York:" "He (General L.) was one of the most candid, upright and useful members of the house."

On the adoption of the new Constitution of the State of New-York, and the consequent reorganization of the judiciary, General Lawrence was elected (county) judge of Onondaga county. The duties of this office he discharged with much ability and acceptance, until the period of his resignation, in 1849. At this present time (1852) he holds the

office of United States Attorney for the Northern District of the State of New-York, to which he was appointed by President Taylor.

Judge Lawrence is in person somewhat above the medium height; rather verging to corpulence, but animated and energetic in all his movements. His countenance bespeaks intelligence, candor and decision, blended with kindness and amiability, that unless overruled by the influence of other qualities, or the stern demands of official duty, would lead him to shrink from all actions, tending either to wound the feelings or mar the enjoyments of others. He has a genial and happy temperament, that acts like sunshine upon those around him. He is a firm believer in the Christian religion, and a communicant in the Presbyterian Church. Although now somewhat advanced in years, his mental faculties are yet in full strength, and his personal appearance that of one not much beyond the prime of life. His is truly a "green old age," that gives flattering promise of usefulness and vigor for years yet to come. Ready in address, affable in manners, to all courteous and accessible, rich in practical intelligence and in common sense views, respecting matters that concern the public weal; withal, possessing much of really benevolent and patriotic feeling—it is, perhaps, not surprising that he has frequently been elected to offices within the gift of the people, in a county that has usually given a large majority against the political party to which he belongs—a fact that gives proof of his popularity, and the esteem in which he is held by those among whom he lives.

In his professional sphere, especially before a jury, General Lawrence has been eminently successful and distinguished. As an advocate, he is remarkable for his quick perception of errors and weaknesses on the part of his opponents, and their cause; and for his readiness and skill in turning them to account: also, for maintaining an imperturbable calmness and self-possession—unruffled by the floutings of opposing counsel, the equivocations or simulated stolidity of witnesses, or any sudden and unexpected turn his cause may take during its progress; and for the ease, grateful courtesy and deference of his address to those whom he aims to influence.

As a speaker on political and other topics, before popular assemblies, General Lawrence holds an elevated rank. He displays great tact in adapting himself to persons, places and occasions. Easily seizing upon the points of his subject most likely to interest and move those whom he addresses, and holding these up before them with distinctness and energy, he is able to coil himself around the popular sympathies, and to reach and sway the popular will. This was exhibited in the most marked manner during the political campaign that preceded General Harrison's election to the Presidency.

HON. WILLIAM W. ELLSWORTH,

JUSTICE OF THE SUPREME COURT OF CONNECTICUT.

WILLIAM WOLCOTT ELLSWORTH, LL.D. is the third son of Oliver Ellsworth, second Chief Justice of the United States. He was born on the 10th of November, 1791, at Windsor, Connecticut, where he received his early education. In 1806, he entered Yale College, and graduated in 1810. Having made choice of the profession of law, he pursued his legal studies, first at the celebrated Litchfield Law School, then under the direction of Judges Reeve and Gould; and afterwards at Hartford, with his brother-in-law, Chief Justice Williams.

Mr. Ellsworth was admitted to the bar in 1813. In the same year he married Emily, eldest daughter of Noah Webster, LL.D., and established himself in the practice of his profession in Hartford. Drawn towards the study of law, as well by natural taste and talent, as by hereditary predilection, he embarked in his professional career with high aim and resolute purpose. He was most assiduous in the study of the great legal authorities, and early adopted a plan which he found of great service to himself, and which might be safely recommended to the younger members of the profession. This was to procure interleaved copies of the elementary writers on law, and record on the blank leaves, and under their appropriate heads, each new decision of the English or American courts. This enabled him at all times to know at once the state of the law on every point which might arise.

Mr. Ellsworth was not yet twenty-two years of age when he entered upon his profession. His time at first would naturally be given to study. He would of course attend to all the business which came in his way. And the more diligent and capable a young man shows himself, the more business will flow to his hands, and the more rapidly will he rise. But in Connecticut, thus far, every young lawyer has found, on entering his profession, that all the important business of the courts was engrossed by a few leading advocates of age, experience, and high capacity. The aspirant must therefore wait, no matter what his talents and acquirements may be, for the oligarchs of the law to relax their hold on the great causes, and let them pass down to hands still resolute with the vigor of youth. Thus has success at the bar usually been almost as slow as promotion in the army. This state of things presents a striking contrast to what we see in the new and unformed society of the western states, where a young lawyer of talent and eloquence will speedily outstrip or displace his seniors, although he finds them in full possession of the courts.

A single fact may show that Mr. Ellsworth's success, amid all these obstacles to the progress of a young man, was neither slow nor uncertain. For when, in 1817, Judge Williams, the leading lawyer at the Hartford bar, was chosen to represent his district in Congress, he entered into partnership with his former pupil and friend, and entrusted to his management his own extensive business. Judge Williams remained two years in the House of Representatives, and the partnership continued some time after his return to the practice of his profession.

Mr. Ellsworth had by this time become widely known as an able and accomplished lawyer. His business began rapidly to increase ; and he took a firm position in the front rank of his profession. His practice was not confined to Hartford, but extended into all the neighboring counties. To Litchfield, in particular, he was always partial as the scene of early legal studies ; and he was seldom absent from its courts. Thus, for sixteen years, his ardent devotion to the manifold and highly responsible engagements, arising out of a widely-extended legal practice, knew no intermission.

In 1829, however, Mr. Ellsworth was elected by his fellow-citizens to represent them in the twenty-first Congress of the United States. Of this body he continued a member for five successive years. During all this period, Mr. Ellsworth was a member of the Judiciary Committee, and in this capacity he took an active part in preparing and reporting measures adapted to carry into effect General Jackson's famous proclamation against the attitude then assumed by South Carolina. On the committee of seven appointed by the House of Representatives to repair to Philadelphia and investigate the condition of the United States bank, Mr. Ellsworth and the Hon. Mr. Everett were the only Whigs. This investigation excited great attention at the time, and its history and results are well known.

Mr. Ellsworth's principal speeches, while in Congress, were on the *Tariff*, the *Judiciary*, the *Pension Laws*, and the removal of the *Cherokee Indians*. He, however, spoke on other occasions, and took an active part, both in committee and on the floor of the House, in carrying into effect other important measures.

There is, perhaps, no man to whom the authors of our country are under greater obligations : for it was Mr. Ellsworth who prepared and reported from the Judiciary Committee the present *Law of Copyright*. Applications having been made to Congress for some alteration of the old law, the whole subject was referred to the Judiciary Committee. This committee, at the head of which stood the Hon. James Buchanan, authorized Mr. Ellsworth to prepare the best modification of the existing law on this subject which could be carried through Congress.

To enable him successfully to recommend a measure which he believed to be of great importance to the country, Mr. Ellsworth took the utmost pains to possess himself of all the facts bearing on this subject. He carefully examined the statutes and laws of the different states of Europe on the question of literary property. And having matured the best information which he could derive from all sources, he prepared, and with the leave of the committee, reported the present bill.

The distinguishing feature of the new bill was the large extension of the time of the copyright, for which it provided. By the old law, a period of fourteen years only was allowed, with a right of renewing for a further term of fourteen years, in case the author were alive at the expiration of the first fourteen years. By the new law, the copyright is secured, at first, for *twenty-eight years*, absolutely ; and then, the author, if he be living, or, in case of his decease, his *widow and children*, or in case of the decease of his widow, his *children alone*, may renew for *fourteen years more*, making thus the whole period over which the copyright may now extend, *forty-two years*. This bill there-

fore confers an incalculable boon on literary men. And it was his deep conviction of the justice of their claims to the natural fruits of their labor, not less than his desire to promote the public interests of literature, which prompted Mr. Ellsworth to spare no pains, in the House of Representatives and out of it, to secure this enlarged term of copyright to themselves and to their families; and the bill became a law chiefly by his efforts and influence.

Mr. Ellsworth was a decided friend of a moderate protective policy. He believed the protection of the industry of this country, against the cheap labor and cheap capital of Europe, to be both constitutional and wise. He believed, also, that such a policy would, by creating a home market for our agricultural products, prove eminently conducive to the prosperity of the country. In politics, he has ever been a firm and consistent Whig, resolute and immovable in maintaining his political views, in Congress and in the councils of his own state, and on all occasions where called either to speak or to act, enjoying at the same time the confidence of his political friends, and the respect of his opponents.

Mr. Ellsworth, much to the regret of his constituents, resigned his seat in the National Legislature in 1834, at the close of the first session of the twenty-third Congress. He was anxious to resume and pursue without interruption, the profession to which he had for so many years devoted all his energies and talents. He soon recovered his business—a thing not very common with those who interrupt it for so long a period by political cares and duties—and again stood amongst the foremost members of the Connecticut bar.

Mr. Ellsworth, in 1838, much against his own wishes and feelings, consented to be nominated by his political friends as a candidate for Governor, and he was elected by a large majority of the people. This office he continued to hold for four successive years, being always elected by the people. At the first session of the legislature, after his election to the gubernatorial chair of his native state, that body being strongly Whig, he was, by his party, not only offered a seat, then vacant, in the Senate of the United States, but strongly urged not to decline it. Had he yielded to the wishes of his friends, he would probably have received every Whig vote, when far less would have secured his election. But he declined, as he did on a like occasion three years later, to take this distinguished appointment, having resolved not to suffer himself again to be withdrawn from his life-pursuit, the study and practice of law. He remained therefore at the bar until 1847, when, by a vote of the legislature of Connecticut, he was chosen a Judge of the Superior Court and Supreme Court of Errors. To the duties of this high office he immediately devoted himself with the same ardor, and the same inflexible purpose, which have characterized every portion of his former professional and public life. And this position, so congenial to all his previous tastes and habits, and to the leading qualities of his mind, Mr. Ellsworth continues to occupy in a manner alike honorable to himself and beneficial to the public interests of order and justice.

The professional character of Mr. Ellsworth presents itself in two points of view—as a practising Lawyer, and as a Judge.

A spectator who witnesses an interesting trial in a court of justice, while gratified by the intellectual exhibition there presented, can hardly realize the training by which the gladiators in the legal arena have acquired their strength and skill. Legal knowledge, ready to be used at a moment's warning, self-possession, experience of human nature—all the energies of a well-stored and self-poised mind, are called into constant requisition in every important trial. These qualifications Mr. Ellsworth in an eminent degree combined. He had, besides, the advantage of entering upon his profession with a finished academical and legal education. By severe study he had mastered the science of law, till his mind played with its subtlest distinctions—but he never neglected close and untiring preparation for each particular cause. Those who knew his mode of transacting business, remarked the careful manner in which his jury-trials were prepared. Many of these were, of course, long, intricate, and involved with many embarrassments. Such cases demand the most minute preparation, and it has often been observed that Mr. Ellsworth was remarkable for anticipating difficulties, and making provision for contingencies likely to arise in the course of a trial, which were unforeseen by others. None but the practising lawyer can fully understand the value of this peculiar talent. Every important trial is full of surprises, where the light-minded, superficial and timid advocate is often overcome, and a good cause irrevocably lost by one fatal mis-step.

In his addresses to the jury, as an advocate, Mr. Ellsworth had few equals and no superiors among his cotemporaries. His language was fluent, copious, and select—his manner and attitude peculiarly graceful and dignified—his voice flexible, sonorous, and entirely under his control. With logical clearness he presented his strong points to the minds of the jury, and urged them upon their consideration with that persuasive eloquence which it is difficult to resist.

The defence of innocence—the assertion of right—the exposure and punishment of fraud—and the redress of wrong—these were the occasions which roused to the utmost the energies of his mind, and furnished full scope for the exhibition of his uncommon power as an advocate. At such times, when the full exertion of his strength was demanded, his eloquence rose with the occasion in power and energy, and bore along with its irresistible torrent the convictions of his hearers.

In addressing a jury, his aim seemed to be, first of all, to gain their entire and willing confidence, by evincing his sincerity throughout the whole course of the trial. He would convince them that he was honest as a man; and that he was honest as a lawyer in advocating the interests of his client. Thus he more easily carried the jury along with him to the desired conclusion. They were made to feel that he was really endeavoring to aid and facilitate their efforts to find the true state of the case; and were thus disarmed of the suspicion too often well-founded, that the advocate is practicing the subtilty of his art only to conceal and distort the truth. In this course, Mr. Ellsworth is worthy of all praise, and of all imitation.

In the form and texture of his address, Mr. Ellsworth was brief, comprehensive and strong: seizing upon the main points of his case and

wasting no strength on the unimportant or inconsiderable ones. By precept as well as by example he disapproved of the interminable and undigested arguments now so common at the bar; obstructing, as they do, the general administration of justice, and wearying out the patience of judges and jurors; and finally, not unfrequently ruining the cause itself which is thus advocated.

Fully recognising the principle that his profession could only be used for moral purposes, Mr. Ellsworth was always anxious to prevent litigation where the ends of justice could be gained without this resort. With this view he was in the habit of advising his clients to settle their disputes by conciliation and by mutual agreement. And he was often successful in bringing about the results which he desired. In many cases, however, the cause of his client would be so palpably just as to leave no room for delay in embracing its advocacy; in others, there was such a complication of facts* and circumstances, as well as of precedents, that the trial alone could determine which party was in the right; and in yet other cases, more doubtful, the client was still entitled to an impartial application of the law to the facts which might be established by an open hearing of both sides. It was, however, Mr. Ellsworth's constant wish and effort to bring about the settlement of cases, where this was possible, without their proceeding to the expense and other evils of a public trial.

Since writing the above, the following well-deserved tribute to the ability of Judge Ellsworth has fallen in our way. It is the language of one* who, himself high on the roll of fame, has an eye to see, and a heart to appreciate, the merit of his distinguished contemporaries:

"Since I had the honor to attempt to maintain this construction of the petitioners' charter, the question has been presented directly to a learned judge in Connecticut, who, after an able debate of the bar, has, upon great consideration, determined it to be the true construction. The opinion of Mr. Ellsworth is before you; of its general ability, its powerful reasoning, and clear and forcible expression, I need say nothing. They speak for themselves. What is there to impair its authority? Does any whisper of disrespect assail that judge?—a man whom Connecticut delights to honor; in honoring whom she more honors herself; of hereditary capacity, purity, learning, and love of the law; once her chief magistrate; long her representative in Congress, and conspicuous there for ability and fidelity. If the land of the Sher-mans, and Griswolds, and Daggets, and Williamsses, rich as she is in learning and virtue, has a sounder lawyer, a more upright magistrate, or an honester man, in her public service, I know not his name."

As a judge, the subject of this sketch at once took a high rank. He brought from the bar an entire familiarity with the law, which it now became his duty to administer officially, and his promptness and accuracy have resulted in a dispatch of business for which the courts of Connecticut have not always in past years been remarkable. His charges have the peculiar excellence of presenting the facts of the case

* The Hon. Rufus Choate, in a speech before a committee of the Massachusetts Legislature.

in question, as detailed in the testimony, with uncommon clearness to the minds of the jury. It is not his habit to recapitulate the evidence after the full comments of counsel, though this he is sometimes constrained to do. But, contenting himself with what has been said at the bar, he, in most cases, states and explains the principles which are to govern the jury in their deliberations, and marks out the course of their inquiries. And in nothing is his success more conspicuous than in the facility with which he disentangles and simplifies a confused or complicated case. He has often been known in such instances to clear the cause of every difficulty, by presenting to the jury a single fact, which, although encumbered with much rubbish, centered in itself the whole merit of the case, and which, when once apprehended, terminated the controversy for ever—thus showing alike his strong common sense, and his practical wisdom in jury trials.

In the Court of Errors, the judicial qualities of his mind find their appropriate sphere. And what was said elsewhere of his distinguished father may truly be said of him:—"His habits of patient and impartial investigation—his sound and accurate judgment, and his quick perception, all conspired to render him every way worthy of the station which he filled."

It only now remains for us to delineate Mr. Ellsworth's character as a man. Few men have been more strongly marked by hereditary qualities, mental and moral. The late Chief Justice Ellsworth was remarkable for the simplicity of his tastes and habits. And, although he associated all his life with great men, in an age of great men, and though he mingled much in the best society of that brilliant period of our history, his manners were as simple as his tastes. In these respects, as in others, the subject of this sketch resembles his illustrious father in an eminent degree. In manners he is characterized by dignified simplicity; in conversation, by earnestness and truthfulness; and in all his intercourse and business with men, by integrity. In his reverence for sincerity and truth, he has ever despised those arts by which ambitious men court the populace, or conciliate the individual. In all the walks of life, public as well as private, he has been content to appear what he is, and to be estimated simply for his worth. And if honors have flowed in upon him, they have been the unbought homage which the human heart still pays to virtue and talent exerted in the public service. Imbued from childhood with a deep reverence for goodness and truth in others, it is but natural that these qualities should be conspicuous in himself. And his character might be summed up in these two words, integrity and earnestness—integrity, or a perfect harmony between the outward and inward life, pervaded and quickened by moral earnestness. With a character thus informed and moulded, it is not to be wondered, that, in the course of a long professional and public life, no act can be pointed at, which sullies the honored name he bears.

This sketch would be incomplete, and lack its highest significance, if it did not tell those who may read it, that Mr. Ellsworth is eminently a religious man. He was carefully educated in the religious principles which distinguished the first settlers of New-England, and in early manhood, he made a public profession of his faith in Christ. Through

all his subsequent life, he has stood before angels and men a witness to the truth and the joys of religion. His convictions of the truth of Christianity, and of its adaptation to the moral necessities of man, have grown with his growth, and strengthened with his strength. For many years it has been his daily habit to read and ponder the Oracles of Truth; and theological reading has long had for him a peculiar charm, and engrossed more and more of that time which he could rescue from the demands of official duty. And of theological writers, the most solid and earnest have ever been his favorites. Among the special topics in theology, aside from the great cardinal doctrine of the Atonement by the God-man, and faith in his atoning blood, he has ever delighted to dwell on the Moral Government of God.*

As a member and an officer, he has long taken an active part in the affairs of the congregation with which he is connected. After he had risen to occupy a distinguished political position, he did not think it beneath him to instruct a class in the Sunday School; and even when governor of the state, he strove to advance the cause of religion by delivering a course of lectures to young men on the Evidences of Christianity. Examples like this show that an open and decided avowal and practice of the Christian religion, is not necessarily incompatible with the cares of official station and extensive business; although they are too often unhappily disjoined by those who have not learned how in all responsible and difficult situations faith lightens the heart and strengthens the hands.

It not unfrequently happens that men who are much in public life, become, in a measure, weaned from home. Such has not, however, been the case with the subject of this sketch. Through life an ardent attachment to his home, reluctance to leave it, and joy in returning to it, has been a striking trait in his character. And, keen as has been his relish for professional business and public duty, he has always seemed to us to be happiest in the bosom of his family—within that sacred circle where he was most revered and loved, because best known.

We most fully sympathise with that wisdom which Solon is represented as having addressed to the rich monarch of Lydia, against regarding any man as completely fortunate until death has removed his life from the sphere of contingencies. We would not cast a glance into the future, even if it were permitted. But the past we may survey with grateful admiration. Looking then, in this spirit, back over the life of which we have given this slight sketch, we find it more rich in the elements of usefulness and happiness than that of most men. It is a life of early advantages, of careful training in religious and secular knowledge, of unfailing health, of sufficient wealth, of unsullied fame, of uniform success in high and honorable aims, of warm affection, receiving and imparting happiness in the family circle, and, above all, of earnest preparation for that blessed existence in a future world which faith reveals to hope.

* As a man is known by the books he reads, not less than by the company he keeps, we may mention under this head the works of Leighton, Wilberforce, Baxter, Robert Hall, and Dr. Chalmers. Hence, Butler's Analogy of Natural and Revealed Religion has long been a favorite study: and, on the same grounds, the recent very able work of McCosh on the Divine Government, has been warmly welcomed.

AMASA JUNIUS PARKER, LL.D.,

JUSTICE OF THE SUPREME COURT OF NEW-YORK.

It is both interesting and instructive to read the biographies of those who have, by their own energies, achieved success in this world; appealing, as they do, to the hopes and aspirations of the human heart, and teaching the way and manner through which that success has been secured. How many, struggling along an adverse path, have been roused and cheered to new efforts by the examples set before them in such lives, and who have themselves attained eminence in learning how it has been attained before them! The incidents may be few or crowded, vivid or otherwise; still, if they record the triumph of talent and virtue, they are of great value, and should be sought after and studied.

Few memoirs will, we apprehend, afford more interest and instruction, than that of the eminent jurist whose name heads this article.

Although the state of New-York claims him with pride, as her citizen, he was born in Connecticut, at Sharon, in the parish of Ellsworth, and county of Litchfield. The region of his birth-place is secluded from the busy world, a spot of sterile hill-sides and stony valleys, but nourishing a race of men, trained in habits of industry, and full of the energy and perseverance which never fail to make way through the difficulties of life. Many are the distinguished men which Litchfield county has produced; men who have trod the path to eminence with a firm step and courageous heart.

The ancestors of Judge Parker were of the old Puritan blood of New-England, and residents in the western part of Connecticut for successive generations. Amasa Parker, and Thomas Fenn, his paternal and maternal grandfathers, were soldiers of the Revolution, and widely respected for the sterling virtues of their character; the latter filling various offices of public trust. He was for thirty-eight successive sessions a member of the state legislature. Both were residents, throughout their lives, of the county of Litchfield, in the above state.

The subject of our memoir was the eldest son of the Rev. Daniel Parker, who was pastor for almost twenty years of the Congregational church of Ellsworth, Connecticut. He was a graduate of Yale College; married Anna, the daughter of the above mentioned Thomas Fenn; and during the time he lived at Ellsworth, established and took charge of an academy which enjoyed a high reputation, and where many men who subsequently became distinguished, were educated. In 1816 he removed to Greenville, Greene county, New-York, and the academy there was placed in his charge. It was under him that the subject of our sketch, then only nine years of age, commenced the study of Latin, continuing in the academy two years. He then went to the Hudson Academy for the same period, and afterwards in the city of New-York passed three years.

Eager for information, the son received from the father the most devoted educational attention. He obtained for him the best instructors

in the country ; and it was thus that the first foundations of that fine classical learning and taste for *belles-lettres*, that, independently of his professional attainments, distinguish Judge Parker, were laid. Such was his diligence, that at the age of sixteen he had completed the usual course of collegiate study. At the same immature age, viz : in May, 1823, he was made the principal of the Hudson Academy, and continued in that capacity four years.

Under his supervision, the academy was placed in a most prosperous condition, and attained a wide reputation ; and such was his youth, that many of his pupils, since distinguished, were older than himself. He was not, up to that time, a college graduate ; but in consequence of a rival academy adducing this as an objection to the young principal, he, in July 1825, caused himself to be examined at Union College for the entire collegiate course. He passed the ordeal triumphantly, graduated with the senior class, and obtained his degree of Bachelor of Arts ; and afterwards, in due course, received the degree of Master of Arts.

After graduating, he resumed his duty at the academy ; and, during the latter portion of his career here, he entered the office of the present Judge John W. Edmonds, then of Hudson, to prosecute the study of the law.

In the spring of 1827 he resigned his trust as principal of the Hudson Academy, and at the age of twenty, removed to Delhi, in the county of Delaware, where his uncle, Col. Amasa Parker, a lawyer of distinction, was practising his profession. He entered the office of his uncle, finished his studies, and in 1828, at the age of twenty-one, was admitted to the bar. He then became a partner of his uncle, and for fifteen years a very large practice engaged the attention of the firm.

The professional business of these two gentlemen is said to have been the most extensive country practice in the state, and the most systematically conducted. Col. Amasa Parker was a lawyer of thorough reading, long experience, and proverbial integrity. He preferred, however, to leave to his partner to discharge the duty of trying and arguing causes. This division of labor could not fail to give to the subject of this memoir great experience in the various courts. It is said that he had tried more causes at the circuits than any young man of his age in the state, at the time of his elevation to the bench.

We recollect seeing him in attendance at one of the Ulster Circuits, where he was engaged as counsel in every cause tried, the court lasting two weeks. His opponent throughout was that veteran of the bar from Poughkeepsie, Gen. Swift. The circuits in Ulster were then held by Judge Ruggles, now a member of the Court of Appeals : and for years it seemed a matter of course, if one party employed as counsel at that circuit either Mr. Parker or Gen. Swift, the other of the two were immediately engaged on the opposite side.

Judge P. was always distinguished for the energy of his character, and promptitude of his business habits. It was a rule of his office that no business letter should remain on the table unanswered over a single return mail. He had great facility in the dispatch of business, and with his untiring industry and application, and the admirable sys-

tem adopted and enforced in his law office, the amount of business transacted was as large as it was various in character.

It was not only as a lawyer, however, that Judge Parker became known to the public. He was called into the political arena. In the fall of 1833, he was elected a democratic member of the State Legislature, and was placed on the Committee of Ways and Means, and in other prominent situations, during the ensuing session. In the subsequent year, being then twenty-seven years old, he was elected by the legislature a Regent of the University; the youngest man ever before or since that time made a member of that distinguished body.

At twenty-nine, he was elected, without opposition, to Congress, from the counties of Broome and Delaware, then forming a Congressional District. During his term he acted upon important committees, and addressed the House upon many public subjects, amongst which were the Mississippi Election Case, the Public Lands and the Cilley Duel, preserved in the columns of the Congressional Globe. All his speeches were of a high order; and upon the former subject, which was of a very intricate kind, his effort called out the praises of both parties, as most masterly, and as shedding the clearest light upon it.

In 1839 he was nominated by the democratic party as senator in the Third Senatorial District of this state. Great excitement prevailed, as a successor to Nathaniel P. Tallmadge in the Senate of the United States was to be chosen by the ensuing legislature. About fifty thousand votes were cast. In consequence of the unwonted exertions used, the whig candidate, Gen. Root, prevailed, although by a majority of only a few votes.

The five years that followed were employed by Mr. Parker in the energetic and laborious practice of his profession. At the end of that time, in March, 1844, he was appointed Circuit Judge of the Third Circuit, when he removed to Albany, where he has continued to reside to the present time.

The duties of this distinguished post were most arduous, combining, as they did, those of a Judge of the Circuit and Vice Chancellor of the Court of Equity. To them he devoted, untiringly, the best energies of his mind, and met in an unfaltering manner his great responsibilities.

The same promptness and system which distinguished him as a lawyer, characterized him as a judge, and enabled him to dispose of an almost incredible amount of business.

In 1845, he held the Delaware Circuit, and no greater responsibility was ever cast upon a judge than fell to the lot of Judge Parker, in holding that court. The county had been declared by the governor in a state of insurrection in consequence of the violent resistance made to the execution of the laws. Assemblages, numbering two or three hundred persons, armed and disguised as Indians, had appeared in different parts of the county, and set the law and its officers at defiance. Sheriff Steele had been shot down while engaged in the faithful discharge of his duty. The governor had therefore found it necessary to call into service a military force, which had been maintained at the county seat for several weeks, by whose aid arrests had been made, and public order maintained.

The jail of the county, and two jails erected for the occasion, had been filled with prisoners charged with every grade of crime, from murder down to misdemeanor. It was under such a state of things, and in the midst of an excited community divided in opinion as to the causes which had led to the commission of such crimes, that Judge Parker opened the Court of Oyer and Terminer. He found over one hundred prisoners confined. He announced that he should continue the court until every indictment was tried, and the jails all cleared. The Attorney-General, aided by Samuel Sherwood, Esq., assisted the District Attorney on the part of the People, and the prisoners were defended by other distinguished counsel. The trials progressed one by one with untiring perseverance: and at the end of the third week, the jails were cleared; every case having been disposed of by conviction, or otherwise. Two were sentenced to death, about fifteen to imprisonment in the state prison, some for life, and others for a less period; and for the lighter offences, fines were in many cases imposed. The course pursued by Judge Parker met with general approbation. While the anti-renters, who had openly violated the laws, felt that the hand of justice had fallen heavily upon them, and were satisfied that the law could no longer be resisted with impunity, the more intelligent among them were also ready frankly to acknowledge that justice had been tempered with mercy.

After the adjournment of the court, the military force was discharged, peace was restored, and in no instance has resistance to process since occurred in that county.

In the summer of 1846, Geneva College conferred the degree of LL.D. upon him, a distinction eminently due to his well-known attainments as a scholar and jurist.

In the same year, his term of office ended with the then constitution, and under the present one adopted at that time, he was elected a Justice of the Supreme Court of the State of New-York, which office he now holds with distinguished ability. It was conferred upon him by the votes of not only his own party, but of a large number upon the opposite side, the suffrages being given as a token of the confidence and respect entertained for him in the Third Judicial District, from which he was elected.

It has been frequently remarked of him, that he has never, since his accession to the bench, either as Circuit or Supreme Court Judge, failed to be present to open court at the precise minute appointed. Not a moment of time is thus lost; the members of the bar, and all others attending court being expected, and thus by example, soon learned to practice similar promptness. A writer, in describing one of his circuits, says, "he accomplishes an infinity of business with the precision of machinery."

Such is the career of one who received no patrimony but his education, and had no aids but his own energies and talents. How he has succeeded, this "plain unvarnished" memoir relates. It furnishes the loftiest evidence of the mighty force of industry, perseverance and integrity, in elevating those who practice those severe but benign virtues.

As a public speaker, Judge Parker is of superior excellence. His

voice is melodious and well cultivated, his bearing is dignified, his language fluent and well-chosen, and his ideas are clear and abundant. In extemporaneous speaking, he has few equals in the state. Always ready to meet an occasion, his off-hand powers of addressing an assemblage are remarkable. In circumstances, when he might well have been in fault, surrounded with the loftiest and most dignified in the land, with celebrated statesmen and orators, we have known him called out without a moment's notice to address the company, and have witnessed the triumph of his eloquence.

His speech in Dunkirk, at the celebration of the New-York and Erie Rail-road completion, with President Fillmore, Mr. Webster, Mr. Crittenden, and others of the Cabinet, a host of dignitaries and gentlemen from all parts of the state, around him; and his remarks at the Webster dinner in Albany, in June last, and at the Litchfield Centennial Celebration in August last, exhibited conclusively his powers in this respect.

As a man and a citizen, Judge Parker has won the esteem and respect of all who know him. His temper is singularly equable and amiable, his heart kindly and capacious, his disposition frank, manly and generous. His person is dignified; his countenance beaming with a smile; and his manners, polished in the best society, are easy, bland and courteous.

Such is Judge Parker; as such, honor is his due, and we delight thus in rendering him justice. Throughout the state is he estimably known. He adorns the station he occupies, while still higher honors doubtless await him in the future.

HON. CHANCELLOR JOHNSTON, OF SOUTH CAROLINA.

This eminent jurist is a native of Fairfield district, South Carolina, and was born of Scotch-Irish parents, near the close of the last century.

His early training, moral and intellectual, was in nowise different from what was common in the state of the country at the time; except that his parents put him very early to school, and gave him all the advantages within their reach; and except, also, the benefits which he received from some domestic arrangements peculiar to the family, and which are deemed not undeserving of notice.

His parents were not ordinary people. His father, though comparatively uneducated, possessed a mind of uncommon strength. His mother was an educated woman, of unusual powers of mind. Both were pious; and, like all Scotch-Irish Presbyterians, anxious for the education and advancement of their children. Besides placing them at school, at as early a period as they could, they attracted to their house, as far as lay within their power, such persons as were possessed of attainments: and thus, at the fireside and the hearth, their rising offspring received the advantages of oral instruction, administered in the most delightful, and, of course, impressive form. They were taught to be attentive listeners: and, in the course of conversations, sometimes prac-

tical, sometimes speculative, sometimes spiced with wit, or seasoned with humor, and sometimes mellowed with sentiment, or chastened with the grave and more awe-inspiring truths of religion and its obligations, they caught much that no vicissitude in after life could deprive them of. When there was no company in the house, or when the company was such as rendered it proper, the invariable habit of each evening was for some one of the family to read some instructive or interesting book, while the rest listened; and to intersperse the exercise, (for it was no task,) with pertinent inquiries and replies, for the better understanding of the author.

Such were the parents of Job Johnston, the subject of this biographical sketch; and such the manner in which they trained him, from his childhood. He has been heard to say that he can hardly remember when he could not read; or when he was not a constant, though an immethodical reader,—a habit which still adheres to him. No wonder that he continually cherishes the memory of such parents with grateful affection.

He was placed at his first Latin school at between eight and nine years of age, and made rapid progress; keeping up with his class, though twice prostrated for several weeks by disease. The schools of those days were supported with difficulty, and this classical school broke up at the end of nine or ten months: and our subject was, of necessity, interrupted in his course. It was resumed, however, after two or three years; and after encountering some other and pretty considerable impediments, he was enabled to enter the junior class in the South Carolina College.

He was graduated with high distinction, though the youngest in his class; and the youngest boy who had, even then, taken a degree in the institution.

After a pretty thorough preparation for the medical profession, he declined to enter upon its practice, from an apprehension that his constitution, which was delicate, was incapable of sustaining its labors, or bearing up under the scenes of distress and anxiety which he must necessarily encounter. But from his medical studies he derived information which he continues to prize; and he is in the habit of recommending to gentlemen of the bar to devote a portion of their time to such studies, as an admirable auxiliary to their own profession.

Having changed his purposes, he turned his attention to the law; and after a diligent reading of the usual course, and a laborious training to office business, he was admitted to practice in the courts of law and equity in November or December, 1818: and at the instance of his friends and relatives, who had been the most earnest and influential supporters of the gentleman with whom he studied, he was immediately taken by him into co-partnership. This connection did not extend beyond the district in which the parties resided: and Mr. Johnston was dependent, for business in other districts, entirely upon his own exertions.

But he soon obtained, and especially in the districts to which the co-partnership did not extend, an excellent standing at the bar.

His progress was not so rapid as it was sure. He was esteemed an excellent lawyer, and argued his cases with ability, and generally with

success. He was never known to mislead his client by flattering advice ; but gave a sincere representation, according to his real conceptions of the case ; and a client who once tried him, was never known to desert him. In the preparation of his business he was diligent and skilful ; and such was his care and accuracy in pleading, that he never was nonsuited, or otherwise failed in a matter of pleading, but once : and, in that instance, the pleading had been put in, in his absence, by another person. Nor was any bill ever filed by him dismissed for insufficiency.

As an advocate, though uncommonly efficient, he made no pretensions to mere oratory. In cases demanding exertion, his style of address was earnest, fervent and argumentative ; and he generally prevailed both with court and jury. In the management of intricate causes, he was very skilful ; and his manner of unfolding the claims of his client was marked for clearness of method, precision of statement, both as to law and fact, and for chasteness, vigor, and perspicuity of language.

He devoted himself to his profession, exclusively. He was never, as is but too common, a candidate for military office, or for the legislature. The politics of his district were, at that time, federal : and he, himself, being a disciple of the Jeffersonian State-Right school, did not choose to enter the arena : especially, as to have done so, would have placed him in competition with his senior partner and professional instructor. He therefore totally abstained from such pursuits, (though retaining, and not concealing, his own opinions,) and gave his undivided energies to the courts and the interests of his clients.

In December, 1830, he was elected Chancellor, in the place of Chancellor Harper, who was transferred to the Court of Appeals. At that time there were but two chancellors ; and his colleague was the late venerable Chancellor De Saussure.

The practice of the court had been extremely loose and imperfect, and Chancellor Johnston set himself to reform it. As in all such cases, he was misunderstood, or misrepresented, by that part of the profession whose indolence was disturbed by the strictness of his discipline. But conceiving that the rights of the suitors and the interests of the community were concerned, he persevered until he accomplished, at least in a great degree, the reformation he designed ; and whatever of diligence and accuracy prevails, at this day, in the preparation of equity business, is, in a great measure, attributable to him.

Such have been his care and circumspection in granting orders, that it has been said, no suitor has ever lost his estate or his rights, by any blunder of his, during the twenty-one years of his administration.

When he came to the bench in 1830, the law and equity jurisdictions were separate, as they still are upon circuit ; but they were united in the Appellate Court. The two chancellors and the five law judges rode their respective circuits ; and from their decisions, appeals were taken to three judges, who sat exclusively as a court of appeals.

In 1835, this latter court was abolished, by the transfer of two of its members to the Court of Equity, (thus increasing the number of chancellors to four,) and by the transfer of the third member to the courts of law, (thus increasing the law judges to six.) A new court of ap-

peals was constituted of all the chancellors and judges, sitting together, —the judge whose decision was under review to have no voice in that particular case. This system lasted but one year, at the end of which the chancellors were constituted an appeal court for equity causes, and the law judges for law cases: and only required to unite in the decision of constitutional questions, and in other specified cases.

To the duties of his high and responsible office, Chancellor Johnston has devoted himself with most exemplary assiduity from the time he came to the bench to the present day; and though the South Carolina reports have been, for the most part, carelessly got up by the reporters, and abound in gross typographical errors, yet if the numerous judgments delivered by this gentleman are attentively examined, they will reflect the highest credit upon his diligence, integrity and ability. The books are full of his decisions; but we notice a few of them as specimens.

Perhaps the doctrine of *Res Judicata* is nowhere placed upon sounder principles than in *Maxwell v. Connor*, (1 *Hill. Ch.* 14,) which has become the leading case, in the state, upon the subject. The same excellence may be attributed to the decree in *Niolen v. Douglass*, (2 *Hill. Ch.* 443,) upon the subject of preferences of particular creditors by a failing debtor: a decision of which, it has been affirmed, by very competent authority, that no case, English or American, has more thoroughly or more philosophically sifted the subject. In this case, the chancellor firmly, and it is thought, successfully, controverts certain propositions of Chancellor Kent. The same subject is examined by him with great ability in *Vaughan v. Evans*, (1 *Hill. Ch.* 414.)

Prior to this decision, and on the second circuit which he rode, he had distinguished himself by a thorough and masterly decree, in *Stoney v. Shultz*: which, upon appeal, was affirmed with a single and very slight modification; but in the miserable report made of the case, (1 *Hill. Ch.* 465,) his decree is omitted, and he is deprived, except among the bar concerned in the cause, of the credit due to the decision.

The great case of *Pell v. Ball* (*Cheves' Eq.* 99) was also heard by him; and his decree drew forth the highest encomiums from Chancellor Kent and Professor Greenleaf.

In the late case of *Johnson v. The Ocmulgee Bank*, (3 *Strobbart's Equity Rep.* 263,) his decree is a monument of diligence, judicial firmness, and ability. And though upon its being brought by appeal before all the chancellors and law judges, it was modified in one or two important particulars: his dissenting opinion, in which he showed still higher powers, and had the concurrence of a large minority of the court, may be safely left to vindicate his judgment.

In *McCool v. Leonard*, (3 *Strobbart's Eq.* 44,) is contained one of the most beautiful vindications of the justice of the law to be found in the books; and the opinion in *Deveaux v. Deveaux*, (1 *Strob. Eq.* 283,) is a fine specimen of judicial style.

In the construction of the celebrated statute of 1791, Mr. Johnston proved his ability, while at the bar, in the argument of *McCaw v. Blewit*. (2 *McCorr's Ch. Rep.* 19.) His argument, which was successful, is always quoted, instead of the opinion of the court, and

makes that case the leading one on the subject. Numerous decisions made by him, as a judge, upon the same statute, are to be found in the books, and show his thorough comprehension of the bearings of this organic law. Some of them, upon the subject of advancements, are of the highest consequence. Among others, we may instance his opinion in *Cooner v. May*. (3 *Strobh. Eq.* 185.) In another case, *McClure v. Young*, still in MS., his inquiry whether the statute destroys tenancy by the courtesy in fees conditional, is distinguished for acumen and power of reasoning.

Chancellor Johnston's abilities were proved in the case of *Picket v. Picket*. (2 *Hill's Chancery Reports*, 470.) This case came before all the chancellors and judges by appeal from his circuit decree, at the time when the structure of the court did not permit him to sit upon the appeal. The majority of the court, in conference, determined to reverse the decree. At the request of the minority, the chancellor wrote a dissenting opinion for them. After the opinion, agreed upon by the majority, was read by Chancellor Harper, the dissenting opinion was read, and its effect was to change the opinion of the court. The dissenting opinion was adopted as the leading opinion, and what had been intended for the leading, became the dissenting opinion.

Another instance alike creditable to him occurred to him in *Field v. Pelot*. (*McMullen Eq.* 369.) There the appeal was from a decree of Chancellor Harper. In the consultation, Chancellor Johnston brought the court, and, among others, Chancellor Harper himself, to agree to a reversal of the decree. The case having been put into his (Ch. J's) hands, to prepare and deliver the opinion of the court, he became satisfied, while drawing it up, that his positions were untenable. He brought the matter to the view of his brethren, but was unable to reconvert them. Chancellor Harper was chosen to deliver the opinion which his brother Johnston was to have delivered—Johnston dissented; and his dissenting opinion has been since adopted as the law. How honorable is this remarkable specimen of candor and probity to both the eminent judges named!

To the cases mentioned, we might add the recent decrees of Chancellor Johnston in *Hay v. Hay*, and *Reese v. Holmes*, (cases yet pending,) as conclusive proofs of rare discrimination, industry, and intellectual ability.

He is almost destitute of pride of opinion. His decrees contain no superficial statements. There is no covering over of the facts; but a full, and even minute, disclosure of every particular. Thus, appealing parties are enabled to subject his legal inferences to the severest scrutiny; and he often joins in reversing his circuit opinions.

In his examination of causes, whether on the circuit, or in the court of appeals, he spares no labor. He resolutely grapples with every difficulty, and fairly establishes his conclusions upon the grounds of reason. His instruments are the *leading elementary principles of law*, rather than cases and precedents; though to those he pays just respect; and is never found among those who impartially set aside authority for the sake of establishing their own notions of right and justice. Though making no pretensions to fine writing, his style is clear, forcible and beautifully chaste. It is the remark of the bar, that it is never difficult

to collect the exact import of his judgments: to ascertain and distinguish between the precise points decided and those not intended to be adjudged.

Such is his judicial character.

Upon the death of Chancellor Harper, in 1846 or '47, he became President of the Court of Appeals in Equity; in which station he still continues.

Though never seeking political preferment, he was spontaneously elected a member of the celebrated Convention of 1832; and, being on a committee with his brother Harper, drew the Ordinance of Nullification, which was reported by that gentleman and adopted by the convention. He also drew and proposed the Ordinance of Allegiance; but, afterwards conceiving that the convention was too much divided to render its passage expedient, he voted against it. It was, nevertheless, carried.

His habits are extremely simple. No man more thoroughly despises or avoids every thing like clap-trap. Retiring and even diffident, shrinking from show and glare, he confines himself to the performance of his duties; and though possessed of very warm social affections, which he displays in limited circles and among those in whom he has confidence, he avoids public display, and is taciturn and reserved in mixed companies.

His taste is delicate, to fastidiousness; and his private pursuits betray these qualities. He is enthusiastically devoted to horticulture; and though denied the opportunities for indulging in the ornamental departments of this art, in the useful branches of it he is quite famous. In his youth and childhood he had a turn for drawing, and without the aid of masters made some proficiency in it; but abandoned it as the business and cares of life pressed upon him. In his leisure moments, which are few, he has acquired a tolerable acquaintance with French, Spanish and Italian; but never having had an instructor, does not venture to pronounce these languages.

He has been twice married; and has several children by each marriage.

In stature he is six feet. In youth he was remarkably slender. Of late years he has become robust, with a considerable tendency to corpulency. In manner he is thoughtful, with a cast of melancholy. But when in a small circle of those whom he can trust, he is cheerful, even to buoyancy.

His health appears to be excellent, and his powers unabated.

HON. JOHN B. CLOPTON,

JUDGE OF THE FOURTH JUDICIAL DISTRICT OF VIRGINIA.

JOHN B. CLOPTON, the present judge of the fourth judicial district and seventh circuit in the state of Virginia, was born in the city of Richmond, on the 12th day of February, 1789; and while an infant, was removed to Roslin, his father's residence, in the county of New-Kent.

John Clopton, his father, was a descendant of William Clopton, who emigrated from England to Virginia in the reign of Queen Anne. During the war of the revolution, he served as a major in the Virginia line, and was among the wounded at the battle of Brandywine. After the war, he acted as clerk to the House of Delegates of Virginia. In 1795, he was elected to Congress from the Richmond and New-Kent district, and with the exception of the session of 1799, when he was successfully opposed by John Marshall, the late chief justice, continued to represent that district in Congress until his death, in 1816. Major Clopton married Sally Bacon, a daughter of Edmund Bacon, of the county of New-Kent, and a lineal descendant of The Rebel, Nathaniel Bacon. Of this marriage, Judge Clopton is the oldest child who survived infancy.

The education of John B. Clopton, the subject of this memoir, was conducted principally at home, under the direction of Thomas MacMurdo, a Scottish gentleman, of high and varied attainment, and very ripe scholarship. Under the tuition of Mr. MacMurdo, he early acquired that taste of literature, particularly of an historical nature, which has ever since found a leading feature in his character. Having completed his scholastic course, Mr. Clopton commenced the study of law, under the instruction of Edmund Randolph, then one of the most eminent members of a bar, which, for its size, had no superior in the Union. In May, 1810, he was called to the bar, and immediately entered upon the active practice of his profession.

At that time, political life held out many inducements to the aspiring, and opened a rapid and attractive path to distinction. The feverish period which preluded the war of 1812, had commenced; and popular feeling was fast approaching a state of high excitement. At such a juncture, it was difficult for any man of ability and ambition to abstain from mingling in political life, and to deny himself that position in the public notice which seemed at the same time so brilliant, and so easily attainable. But controlling his own inclinations, and disregarding the importunities of his friends, Mr. Clopton refused to take any active part in politics, and devoted himself closely to the practice of his profession and the management of his estate, until 1820, when he was elected to represent the Richmond and New-Kent district in the Senate of Virginia. This district he continued to represent until 1830, when, in consequence of its interference with his professional duties, and his growing distaste to political life, he declined re-election.

In May, 1830, he married Maria G., the oldest living daughter of John Foster, an English merchant, residing in Richmond.

In 1829, a Convention was called, for the purpose of framing a new Constitution for the State of Virginia. Few bodies have ever been convened in the United States, none certainly in Virginia, which presented a more splendid array of talent, than the Convention of 1829, or which won for itself a more wide-spread reputation. In this Convention, the metropolitan district, comprising the city of Richmond, and the counties of Henrico, New-Kent, Charles City, James City, York, Warwick, and Elizabeth City, were represented by the late Chief Justice Marshall, the late Judge Nicholas, John Tyler, late President, and John B. Clopton.

About the close of the Convention, the business of the higher courts, held in Richmond, had become very heavy. With crowded dockets, these sessions were necessarily very protracted. Finding that he could not, with convenience, attend to his practice in those courts, while residing in New-Kent, in 1833 Mr. Clopton removed to Richmond.

In 1834, he was elected a judge of the General Court of Virginia, and assigned to the fourth judicial district and seventh circuit, then vacated by the appointment of Judge Brockenbrough to the Court of Appeals.

This circuit then consisted of the city of Richmond, and the counties of Henrico, Hanover, Chesterfield, Powhatan and Goochland. For each of these counties a semi-annual court was held, known as the Circuit Superior Court of that county, and having both civil and criminal jurisdiction. The criminal jurisdiction of these courts extended to the trial of all offences committed by whites and free negroes, with appeal only to the General Court, which, prior to its remodeling in eighteen hundred and forty-nine, consisted of the judges of all the circuit courts, and met in Richmond in June and December of each year, for the trial of such appeals. The civil jurisdiction included all cases both in law and equity, where the amount in controversy exceeded fifty dollars, and an appellate power over causes tried in the county or inferior courts. The decision of the Circuit Superior Courts was final in all causes not involving more than one hundred dollars. Cases of larger amount could be carried for error to the Court of Appeals, consisting of five judges, which was the Supreme Court of the state.

The business of this circuit was enormously heavy, and increasing every year. The counties forming it were among the most wealthy and populous in the state, and the transactions of the people such as to produce much difficult and protracted litigation. The dockets of all the courts were crowded, particularly those of the Circuit Court for the city of Richmond and county of Henrico, both on the law and chancery sides. The chancery side was especially so; for in addition to the legitimate business of that court, the causes which were pending in the High Court of Chancery for the State of Virginia, and in the Chancery Court for the Richmond District, had, upon the abrogation of these courts, been transferred to this, and a large number of them still remained undecided.

From the period of his election until 1837, the duties of his office required Judge Clopton to be almost continually upon the bench. Being found too arduous for any one judge to discharge, the legislature in that year formed a new circuit of the city of Richmond and county of Henrico; and Philip N. Nicholson, Esq., was elected judge. Sub-

sequently the law and chancery sides of that court were separated, and each constituted a distinct circuit—Judge Nicholson continuing to preside over the law court, and John Robertson, Esq., being elected chancellor. After this change the counties of Charles City and New-Kent were added to Judge Clopton's circuit, and more recently the county of Powhatan taken from it. His circuit now consists of the counties of Hanover, Chesterfield, Goochland, New-Kent, and Charles City.

Few men have occupied a higher position upon the Virginia bench than Judge Clopton. Regarding the study of law, not merely as a matter of professional duty, but as the investigation of an intricate and beautiful science, he devoted the powers of his fine intellect to it not more as a means of advancement in his profession, than as a matter of taste and subject of intellectual pleasure. With a mind eminently legal in its character—with reasoning powers, active, rapid and accurate—with that peculiar mental faculty which enables the possessor to disencumber the subject before him of all surplus matter, and follow the correct line of argument without danger of deviation, he united to great research much analytical ability and deep thought. Thus fitted by nature and education for its study—viewing it in this light, and investigating it with this double impulse and purpose, he could not be content with that comparatively superficial knowledge which might have answered the demands of practice, but closely and carefully searched into the anatomy of English and American jurisprudence. Familiar to a remarkable degree with the minutiae of English history, particularly of those times when law was erected into a system—looking not merely to the prominent features of that system, but to the causes which led to, and the circumstances attendant upon the introduction of those features, he learned to attend less to the letter than to the great purpose and spirit of law. His mind thus early became imbued with those great leading principles which form the only solid basis of legal learning, and which are the rules by which alone the correctness of individual decisions can be accurately tested. Making himself acquainted with all important decisions of English and American courts, a remarkably retentive memory enabled him not only to recollect the prominent points decided in each cause, but most usually the detailed history of the case, and the finer and more delicate legal distinctions which were drawn in its progress. This course of study while at the bar, with his clear views of legal philosophy and analogy, enabled him, upon coming to the bench, to decide the difficult questions arising in his courts, not seldom upon unadjudicated points, with great rapidity, and little consultation of authority. Of the accuracy of these decisions, and his high judicial capacity, perhaps the best evidence is found in the fact that, with the large number of cases coming before him for determination, fewer of his decisions have been reversed by the Appellate Court than of any other judge of the general court who has been upon the bench for an equal length of time.

With abilities and a varied store of information eminently fitting him for such a position, Judge Clopton has always entertained an aversion to political life, which disinclined him from taking an active part either in state or federal politics; and except on the occasions mentioned, he never could be persuaded to offer himself as a candidate for any

office. Much attached to literary pursuits, he preferred giving the time which could be taken from professional duties to the fine library he had collected, rather than to those public occupations, which, if more exciting, were less congenial to a retiring nature. Though eager in his search after knowledge, yet studying scarcely more for its acquisition than for the love of study, he has been accustomed for a long period to spend in reading almost every moment which could be taken from graver duties, and many of those hours which are usually devoted to sleep.

In friendly, social intercourse, he has few superiors. Possessing a fund of information which seems not only to embrace every clime and every subject, but all the prominent personages of every country and every time; a knowledge of the classics, which comprehends not merely the leading authors of Grecian and Roman literature, but the rich and varied fields of learning which are connected with them;—a fine dramatic taste, and a familiar acquaintance with the leading playwrights;—an acquaintance with history, including not only the narrative of events, but extending to its minor details, and the manner and customs of nations at the different periods of their existence;—a biographical knowledge of the men of Europe and America, which, not confining itself to their history as politicians or men of science, extends to their private lives and characters—with much of the quaint lore of the antiquary;—a fund of anecdote, and a vein of quiet humor seldom surpassed, with rare conversational powers—clothing his ideas in language at once simple and elegant—imparting his information with that absence of pretension which evidences an entire freedom from pedantry—there are very few who do not derive both pleasure and instruction from his society.

With the quiet, easy manner of the old Virginia gentleman, at home in any company and welcome in all; with that true politeness which, appearing to recognize no difference in men, extends the same dignified courtesy to the humblest and poorest as to the highest and most influential; with that mingled pride and delicacy of character which will flatter the vanity or wound the feelings of no one; plain, unostentatious and unpretending, it is difficult to know without admiring him, and he is believed to be without an enemy.

Of Judge Clopton it may correctly be said, that he presents the rare combination of the able and impartial judge, the accomplished scholar, and the true gentleman.

HON. DANIEL A. WILSON,
OF VIRGINIA.

DANIEL ALLEN WILSON was born in Cumberland county, Virginia, the 21st day of May, 1790. His ancestors were among the early settlers of the state. His father, Richard Wilson, of James City, served through the Revolutionary War as an officer of the Virginia militia,

being engaged in the battle of Guilford and the siege of Yorktown, which terminated that ever-memorable struggle. His mother, Priscilla, was the daughter of Daniel Allen, of Cumberland. At an early age he entered Hampden Sidney College, at which celebrated seat of learning he acquired a high reputation for scholarship and honorable deportment. The manly and generous qualities that exhibited themselves in his intercourse with his fellows; the kindness, sincerity, and independence of spirit that formed his social character, won for him, to an unusual degree, the esteem of those with whom he was associated; while the faithful performance of his scholastic duties, and the facility with which he mastered his studies, attracted the regard of his teachers, and excited hopes of future distinction, not disappointed in the sequel of his life.

After his academic studies were completed, he entered the law-office of William Daniel, subsequently one of the most eminent judges of the General Court of Virginia, under whose direction he prosecuted the study of the law. In 1810 he was admitted to the bar, and entered at once upon a lucrative practice. As a lawyer, he gained most reputation as an advocate, and was particularly distinguished for his success before juries in criminal cases. In all the duties of the practitioner—multiform, delicate, and trying as they are—his integrity was above reproach; and his fairness, ability, and skill, commanded the confidence and admiration alike of his professional brethren and of the public. He was esteemed by all as a conscientious counselor, an eloquent advocate, and a learned and discriminating jurist.

During the war of 1812 he performed two tours of service as lieutenant of a volunteer troop of cavalry, from his native county; and though the fortunes of war did not bring him into the presence of the enemy, the promptness with which the company rallied to the defence of the country, and the high degree of discipline and soldierly excellence attained by the Cumberland cavalry, made it one of the most noted corps in the service.

In 1814, having resumed the practice of his profession at Cumberland Court-house, he was united in marriage with Rebecca Ann, daughter of John Macon, of Powhatan. He continued the practice of the law with unvaried success and distinction until the year 1824, when yielding to the solicitations of others, and lured, it may be, by political aspirations, he became a candidate for, and was elected to a seat in the general assembly. From that period until 1828, when he declined being a candidate for re-election, he continued to represent his county in the House of Delegates without opposition. During the term of his service in this capacity, and afterwards, he was on terms of intimacy with Tazewell, Randolph, Giles, and other statesmen of Virginia of world-wide renown. This era of the legislative history of Virginia was marked rather by an unusual amount of talent than by political excitement or agitation. The subject of this sketch was one of the leaders of that division claiming to adhere most rigidly to a strict construction of the federal constitution. He was chiefly instrumental in the election of Tazewell to the Senate of the United States; and in the contest of 1826, between Randolph and Tyler, for a seat in the same body, he exerted himself warmly in favor of the former.

During the cessation of party strife that succeeded the election of Jefferson, and characterized the administration of Madison and Monroe, and the early part of Adams', the Legislature of Virginia were mainly engaged in the consideration of questions of state policy. Wherever questions of a party character arose, and especially such as involved the rights of the states, Mr. Wilson was always found co-operating with those who demanded that the action of the federal government should be restricted to powers clearly granted by the constitution. He was a firm supporter of the doctrines of that school founded by Jefferson and Madison, and of the principles set forth in the celebrated resolutions of 1798-99. But during the political calm to which reference has been made, no question of other than minor interest, involving federal politics, arose. Among other subjects of state policy, a reformation in the judiciary system came under consideration. In imitation of the English practice, and without regard to the sparseness of our population, the common law and chancery jurisdiction were divided and vested in separate tribunals. The common law jurisdiction was vested in circuit courts, held by judges in each county of the state—while the chancery jurisdiction was vested in courts of chancery, held by chancellors for large districts—the whole state being divided into only five. This arrangement occasioned very great inconvenience to suitors, and sometimes led to a denial of justice. Not unfrequently the courts of law and those of chancery would differ as to their respective jurisdictions, and in some cases there was no mode of determining which was the rightful tribunal. But the chief inconvenience resulted from the size of the districts. Suitors were required to travel great distances, and remain at great expense, awaiting the tedious action of lawyers and the court, and the dilatory movements of parties, whose interest it frequently was to retard the decree of the chancellor. This attendance upon the courts was the more arduous from the want at that time of all facilities for travel except the ordinary roads and conveyances.

Experience of the evils of such a system prompted Mr. Wilson to undertake its reformation, and accordingly he moved a resolution of inquiry into the matter; and shortly afterwards, as chairman of the committee appointed for the purpose, reported a bill, blending the common law and chancery jurisdiction, and conferring it jointly on the circuit superior courts of each county in the state. The bill, through his influence, passed the House of Delegates, but was lost in the Senate. The scheme was, however, so favorably received by the people, that it was adopted a few sessions later, and yet remains almost the only feature of the judicial system that has not since undergone a change. Its adaptation to the circumstances and wants of the people of Virginia, has been tested and approved by the experience of twenty years.

In 1829, Mr. Wilson was elected by the general assembly one of the eight members of the council of state. In 1830, the council having been reduced by the amended Constitution, from eight to three, he was again chosen one of the three. The office of councilor was, at this period, one of great responsibility and corresponding honor. By the organic law of the state, the governor was directed, before he exercised any discretionary power conferred on him by the Constitution or laws,

to require the written advice of the members of the council. In the absence, or at the death or resignation of the governor, the eldest councilor acted as governor of the state. The era of which we are speaking, is one of the most brilliant in the history of Virginia. Then Giles, Floyd and Tazewell stood at the helm of state. Randolph, of Roanoke, was in the zenith of his unequalled powers, and, with all his mental idiosyncracies, was the steadfast advocate of state rights. Tazewell was the most accomplished and astute statesman and jurist of the age. Giles was possessed of a most vigorous and searching intellect, and was an ardent co-laborer with the others in support of the Virginia construction of the Federal Constitution. Peter V. Daniel, who now adorns the bench of the Federal Judiciary, was then prominent and influential in controlling the policy of the state, and moulding the political sentiments of its people. These were the associates and friends of Mr. Wilson. With these kindred spirits, he assisted in directing the destinies of the "Old Dominion" for a series of years, more glorious than any since the days of the Revolution.

In 1840, Mr. Wilson having again become a private citizen, was elected by the general assembly one of the judges of the General Court of Virginia. The office was conferred at the solicitation of many members of the legal profession in the circuit with whom he had been long and intimately associated in the practice, and who possessed the amplest means of knowing his moral and mental qualifications for the high trust. Its acceptance imposed no ordinary amount of duty and responsibility. The docket, with perhaps a single exception, was the largest in the state; and many of the cases involved interests of vast and extended moment. In the town of Lynchburg, and the county of Buckingham particularly—the one the most active and enterprising place of business for its number of inhabitants in the state, the other a large and populous county in which unfortunate speculations had entailed a class of suits extraordinary in number and character—the difficulties of the post were most embarrassing. In Lynchburg, a heavy bank defalcation had involved the citizens and money institutions in prosecutions and litigation that brought up the most intricate principles of criminal law, and the most delicate questions of commercial relation. In the discharge of these trying duties, the judge's fixed and unwearying purpose seemed to be, to arrive at *the truth*, and to administer *the law*. He displayed, throughout the tedious process of the various trials, which are indeed the striking characteristics of his judicial bearing, patience, courtesy, dignity, and veneration for the laws as they are written.

Amid the clamor of opposing counsel—the sophistical arguments to which professional zeal sometimes seduces them, and the frequent occurrence of events, wearisome and provoking in the transaction of legal business—Judge Wilson preserves, in a remarkable manner, the blandness of his temper and the equipoise of his intellect. He ever looks to the principles of justice, as impressed upon its scrolls by the great fathers and expounders of jurisprudence, without an emotion of the advocate or partisan, in any case that comes before him. He has achieved an amiable reputation for impartiality, ability, and learning. These official qualifications, united with great simplicity, frankness and cordiality of manner, and adorned by a spotless purity of private life, make

this brief record of his virtues just to himself, and, it is hoped, not without usefulness to others, as presenting, in a single individual, the double type of the Virginia jurist and gentleman.

HON. JOHN W. NASH,
OF VIRGINIA.

JOHN W. NASH, the subject of the present memoir, is one of the judges of the General Court of Virginia, and the judge of the Second Judicial Circuit of that state. The Second Judicial Circuit comprises the city of Petersburg and seven of the adjoining counties; extending from the James River to the North Carolina border; and is inhabited by an enlightened and highly cultivated population. Judge Nash is by birth a Virginian, and a native of the county of Fauquier, and is of purely Virginian and English descent. He is now in the 59th year of his age, and resides in the county of Powhatan. His education, though classical, was not complete; but this deficiency was in a great measure supplied by subsequent reading and study. He studied law in 1812 and 1813, with John Love, Esq., a distinguished lawyer in the county of Prince William, and commenced his professional career in the county of Cumberland, on the south side of James River, in 1813. The United States was at that time engaged in the war with Great Britain, and Mr. Nash, who was then a very young man, with the characteristic ardor of men of his age, earnestly espoused the cause of the war, and gave to Mr. Madison's administration his hearty support. This necessarily placed him in opposition to that brilliant, but eccentric politician, the late John Randolph of Roanoke, within whose congressional district he then resided; and in the memorable contest of that day between the late John W. Eppes and Mr. Randolph, he gave to Mr. Eppes a cordial support. To this circumstance, perhaps, is to be attributed his early attention to politics: for in 1818 we find him returned as a delegate from the county of Cumberland to the legislature of the state; and it was during the session of 1818 and 1819, that the statute laws of Virginia (which had been previously revised and compiled by Mr. Leigh and others) were acted on by the legislature, and we find Mr. Nash one of the members of the committee in the House of Delegates to whom those bills were referred. He was thus afforded an opportunity of becoming still more familiar with the statute laws of the state, which were in after-life to engage so much of his attention. He served, however, only one session as a delegate from the county of Cumberland, but voluntarily resigned his seat for the purpose of devoting himself more exclusively to his profession. In 1820 he removed to the county of Amelia, where he united the pursuits of agriculture with the practice of the law, a thing not unusual with the country lawyers of Virginia and the other southern states. In 1825 he was elected, with the late Governor Giles, to represent the county of Amelia in the legislature, for the express purpose of opposing the call of a convention to alter the then constitution of Virginia, which, with the aid of others, they succeeded in preventing at that time.

He served for the next two sessions in the legislature, but again voluntarily resigned for the purpose of pursuing his profession. It was during his residence in Amelia that he became involved in a discussion in the public papers with the late Wm. H. Fitzhugh, of Fairfax, in relation to the American Colonization Society, who was one of the Vice Presidents of the Parent Society at Washington, and a most accomplished gentleman and elegant writer. Mr. Nash admitted the philanthropy in which the society originated, but with many others of that day, distrusted the success of the enterprise, and feared the influence which the indiscreet efforts of its advocates might produce, upon the peace and tranquillity of a southern community. Mr. Fitzhugh was its unqualified advocate. Mr. Nash wrote under the signature of Caius Gracchus, and Mr. Fitzhugh under that of Opimius. Their controversy attracted much of the public attention at the time, and was subsequently republished by Ralph Randolph Gurley, the resident agent of the parent society at Washington, in the *African Repository*, and again in pamphlet form. The publication may be referred to as furnishing specimens of Mr. Nash's style as a writer, and we refer to it only for that purpose; for we have been informed that subsequently his opinions underwent much change upon the subject, and that he is at this time a sincere well-wisher of the colony in Liberia, and to the objects of the institution generally. In 1830 he sold out his plantation in Amelia, and removed to the county of Powhatan, the place of his present residence. He had not long been a resident of Powhatan before he was again elected to the legislature, in the spring of 1832. He continued a member of the House of Delegates until the spring of 1835, when he was elected to the Senate of Virginia, of which body he continued a member for the next seven years. While a member of the Senate he was elected to preside over its deliberations, and acted as the speaker for the last three years of his service. In 1842 he voluntarily resigned his office as speaker of the Senate, and member of that body, being heartily tired of public life, and the strife and turmoil of party politics.

The period which elapsed from 1832 to 1842, which embraced the last term of General Jackson's administration and that of Mr. Van Buren, is known to have been one of deep interest and excitement in the political history of the country. In 1833, the state of South Carolina put forth an ordinance of Nullification, which drew from General Jackson his famous Proclamation of that day, in which he denounced the proceedings of South Carolina as revolutionary in their character, and declared the determination of the Federal Government to execute its laws by force, if it should become necessary. This proclamation, and the Force Bill, which was passed by Congress by a large majority, although they had the effect of putting an end to the heresy of Nullification, were regarded by many of the politicians of Virginia, and others, as erroneous in principle, and otherwise objectionable; and being followed, in October of the same year, by the removal of the United States deposits from the Bank of the United States, led to a serious division among the friends of the administration, and laid the foundation for the present division of the political parties of the country into *Whigs* and *Democrats*. Mr. Nash sided upon these questions with

the administration. The doctrine which claims for a single state the power to declare a law of Congress void, and to prohibit its execution within her limits, at the same time that she remains a member of the Union, was too gross an absurdity ever to be admitted by him. He attached too high a value to the Union, and understood too well the principles of the Federal Constitution, to hesitate a moment in support of the principle of the proclamation and the Force Bill, which affirmed the constitutional obligation of the President to execute the laws of Congress, although resistance thereto might be made under the authority of a state. The kindred doctrine, of the right of any state, at pleasure, peaceably to secede from the Union, finds no better favor with him than the doctrine of Nullification. He believes them to be revolutionary in their character, and to belong to that class of moral and political rights, the exercise of which can only be justified when it is necessary to resist oppression by political revolution. Entertaining these opinions, and having been through life attached to the democratic party of the country, he gave to General Jackson's administration, and that of his successor, a cordial support. He is decided in his politics. But he was never, either in public or in private life, a bigoted, or intolerant partisan, and has often been heard to declare that he would as soon quarrel with his friend for the color of his hair, as he would fall out with him for any honest difference of opinion upon the subject of politics.

Hence it is that he numbers now, as he has always done, many of his warmest friends among those who differ with him upon party politics. And it is perhaps owing to this fact, and the high regard which he has for freedom and independence of opinion, on the part of others, that he was elected, on one occasion, speaker of the Senate, in a time of high party excitement, with a majority of political opponents in that body.

In 1848, Judge Nash was appointed to his present office by the Governor of Virginia, which appointment was confirmed at the next session of the legislature, without opposition. Since he has been upon the bench, he has reviewed much of his early reading, and has discharged the duties of his office in a manner satisfactory to the public, and free from objection from any quarter. In his habits, he is temperate and industrious, and free from all ostentation, either in dress or manners. An utilitarian in principle, he always prefers that which is substantial and useful to that which is only ornamental.

HON. NATHAN GREEN,

SENIOR JUDGE OF THE SUPREME COURT OF TENNESSEE.

THOMAS GREEN, son of a tallow-chandler in London, emigrated to this country thirty or forty years before the Revolution, and having purchased land in Amelia county, Virginia, and married, cultivated his farm with his own hands, assisted by his two sons, the eldest of whom, Thomas, was the father of the subject of this notice.

This Thomas had grown to man's estate at the commencement of the war, and was several times in camp in the militia service. About the end of the struggle he married Nancy, daughter of William Wood, a highly respectable planter of the neighborhood, who, on her marriage, received from her father a small patrimony, consisting of a negro or two, and some household goods; and her husband, having made a little money, purchased land near their parents, and set himself down to pass his life in the innocent and tranquil labors of agriculture.

This couple were as opposite in character as possible; while the husband was stern, inflexible, and withal excitable, the wife was gentle, kind and quiet, and well knew how, with her mild voice and beseeching look, to avert her husband's wrath, when burning hottest against any luckless offender in the family circle. She ruled his passionate nature by the law of kindness; and, in the quiet seclusion of their rural home, their lives glided along without a cloud to cast a shadow upon their happiness. He was industrious and economical, but not parsimonious. While, therefore, he would not brook an idler about him, either child or servant, nor suffer waste of anything, yet he provided bountifully for his family, lived generously, and, with his gentle wife at the head of his table, exemplified Virginia hospitality in its best sense. He did not grow rich, but kept out of debt, and acquired an ample competence.

The first child of this marriage was a daughter, who died in early life. She was succeeded by eight sons, all of whom, except the eldest, survived their father. The youngest but one of these children, *Nathan*, born May 16, 1792, is the subject of this article.

According to the rigid scheme of our sturdy fathers, he was put to work on the farm as soon as he could wield a hoe, or steadily hold the handles of the plow. In this respect he fared like the young negroes; their work was his work, and his holidays were theirs. The only difference then made between the children and young servants was, that the children, for two or three months in the winter, were sent to the neighboring "old field school," there to be initiated in the mysteries of reading, writing and ciphering; but to be recalled to the farm as soon as the winter was broken, and the genial sun of spring had prepared the ground for tillage again.

His father, though a man of strong natural abilities, and intelligent in the practical business of life, and, therefore, influential in his neighborhood, had had but three months schooling at most; and his mother,

being only able to read intelligibly and write legibly, could aid but little in the mental culture of her children, had she been less than she was absorbed in the routine of domestic duties. They had, therefore, neither books, book learning, nor taste for either; and consequently, the old field school, and that only in winter, was young Green's sole seminary of learning. The candidates for employment in these primitive academies, knowing that penmanship was the sole test of scholarship with their rustic employers, drew up their terms in their best handwriting, and presented that with greater or less confidence according to its excellence, as evidence of their qualifications for the office sought. But however superior the chirography might be, the applicant was sure to be rejected, if his charges exceeded five or six dollars a scholar per year. Ten dollars was deemed an exorbitant charge for a teacher capable of giving instruction in English grammar; and, of course, able instructors were out of the question in these schools.

As in thousands of other instances with which the world is familiar, obstacles only sharpened the edge of young Green's resolution and emulation to be the foremost scholar in the humble elements to which his career seemed to be limited. His keenness in this pursuit earned him a sound drubbing from Tommy Ray, his first teacher, although he was a gay, genial, good-natured bachelor of fifty, and, therefore, not likely to take offence, especially at a poor boy struggling for eminence.

The fashions in these schools was, to have every pupil recite his lessons separately, so that there were as many recitations as there were pupils. The boy or girl considered by the teacher the most advanced in knowledge, was the *head scholar*, and so on down to the one who knew least, who was *foot*. Dick Pincham and Nathan Green matriculated in Tommy Ray's academy on the same day, and neither of them knew a letter in the alphabet. Neither of them, therefore, was foot, and neither had a right to recite first. Both considered it a disgrace to be foot, and neither was a candidate for the post. Tommy would not decide between them until one had shown his pre-eminence in scholarship; and while this was undecided, whichever recited first was head, and his discomfited adversary was foot. There was in the school-house a small three-legged stool, the fortunate possessor of which was sure to succeed in anticipating his rival. Here was a genuine *ἀγών* produced between Nathan and Dick for priority in getting and keeping this tripod. One day Nathan had mounted it, and was waiting securely for his triumph and chaplet of laurel, watching the close of the pending recitation, ready to spring up and begin on the instant. At this critical moment, Paschal Green, his elder brother, quietly took hold of the leg of his stool, and suddenly jerked it from under him, and he fell prostrate on the ground. Recovering, he saw Dick by the master's side in full possession of the prize. He instantly turned upon the mischievous cause of his misfortune, and began pommeling him soundly. Tommy's province being thus openly invaded, he administered to Nathan instant and condign punishment for his usurpation.

Jack Miller, a schoolmate, told him, when about twelve years old, that *his* father intended to send him to school seven years. Nathan's eyes filled with tears, and he said to Jack, "If my father will not send me to school, I'll work for money when I become a man, and then go to

school ;" for it struck his tender mind, that knowledge was above all price, and preferable to every other good. There were no books in his father's house but the Bible, a History of Rome, the Romance of Sir Guy of Warwick, and such school-books as Scott's Lessons, the English Reader, &c. These he read and read again, till he had committed large portions of their contents to memory. This was all his reading at the age of seventeen, when his father died : at which time,—his mother having died two years before,—he became the ward of an uncle, on whom he prevailed to permit him to go to a classical academy, taught near Prince Edward Court-house, by a gentleman named McRobert, one of the best classical teachers in Virginia.

Here he became acquainted with Mary Field, a step-daughter of his teacher, by whose attractive person and amiable disposition he was enchanted. He had been brought up in a secluded neighborhood, twenty miles from the Court-house of the county, among a rustic population—had mingled but little in female society, and was, therefore, shy and awkward, as well as susceptible. Under these circumstances, he might, doubtless, have been captivated by a lady much less attractive than Mary Field. As their acquaintance increased, a mutual attachment grew up, and a union with her became the absorbing topic of his thoughts. He now resolved to be married ; and on the small farm he had inherited, to follow in the footsteps of his father, and earn his bread by tilling the ground. Thus was the instinctive yearning for knowledge, the sure index of superior natural parts, smothered, for the time, by the great human passion which painted, in his imagination, an Arcadian picture of connubial happiness, in quiet seclusion, far from the toils and honors of ambition.

But, at this juncture, a brother of his preceptor, a retired lawyer of considerable distinction, proposed to him to study law in his office. Hitherto he had never contemplated such a plan of life. Lawyers and judges were considered by his simple-minded neighbors as moving far above them in a sphere of their own, and were looked upon with reverence and awe. He was, therefore, much surprised by Mr. McRobert's proposition, and still more when he obviated the objection that the expense would be beyond his slender means, by proposing that he should teach his children as compensation for his board and the use of his books.

Thus flattered, he began now to have higher aspirations, and his doubts and hesitation easily gave way when Mary Field warmly advocated the proposal, and urged that he would thus be introduced into the same circle as her own family, of whom, two were physicians and another a lawyer. But being only twenty years of age, his uncle's consent must be obtained before he could accept the gratifying proposal of Mr. McRobert. This uncle and guardian being a grave man of sixty-five, possessing considerable property and influence in his neighborhood, was held in reverential fear by the nephew, who, after having gone to his house for the purpose, and waited for an opportunity when none of the family were present, with undisguised timidity made known that Mr. McRobert had proposed that he should study law. The old man looked him full in the face, with much apparent astonishment, and said—"Proposed what?" Nathan repeated what he had said still

more timidly ; whereat the old man's habitual gravity gave way, and he indulged, for once, in a hearty laugh, which he repeated when he tried, seeing Nathan's chagrin, to inquire seriously into the case. After awhile he recovered himself, and without difficulty gave his consent that his ward should become a lawyer if he had the temerity to aim so high.

Accordingly, in the winter of 1811-12, he commenced the study of law with Theodorick B. McRobert, whose death, in the autumn of 1812, deprived our student of his valuable aid, and threw him again on his own resources. Having now made, however, considerable progress, and become committed to a course along which he was urged by inclination and ambition, he immediately engaged with Richard N. Venable, an eminent lawyer then at the bar, to continue the study, paying him for board and instruction one hundred and fifty dollars per annum. His time being wholly at his own disposal, he devoted himself unremittingly to his books, and in the judgment of his instructor, was prepared to ask for license when he attained his majority, on the 16th May, 1813.

But, under the acts of Congress of February and April, 1812, passed in anticipation of the war with England, authorizing the President to organize and accept the services of volunteers, he was one of a hundred young men of Prince Edward county who had offered their services. This company, in the summer of 1813, was ordered to Richmond to repel an attack on that place, then apparently threatened by the British vessels in the Chesapeake. At the end of the second day's march the order to advance was countermanded ; the enemy's vessels having, after ascending a considerable distance, dropped down the river to their original station.

This order to repair to Richmond was given on the 3d of July, and on the next day the march was commenced. The suddenness of this movement, and the expectation of an immediate battle, took Mary Field by surprise, and she was unable to conceal the interest she felt in our student ; so that, by the time the company returned, their engagement had become notorious, and they were annoyed by the gossip that immediately ensued. They soon, however, put an end to this, for they were married on the 24th of July, 1813.

The married couple spent the rest of the year in visiting among their friends, but their happiness was grievously marred by an order in December to the Prince Edward volunteers to organize again and march, this time, to Norfolk. The young husband was sorely tempted to employ a substitute ; but public opinion declaring against it, and not being exactly satisfied with the morality of putting another in the dangerous place which he had voluntarily chosen, he at last decided to march with his company. The men of the mountains, accustomed to pure air and much active exercise, when cooped up in forts or fortified camps, in the heavy atmosphere of Norfolk, fell by thousands under attacks of malignant measles and other camp diseases. Our young lawyer suffered a violent attack of the epidemic, and barely escaped with his life ; but he did escape, and rejoined his wife in April, 1814.

In the beginning of 1815 he obtained license, and commenced attending the county and circuit courts of Prince Edward, Buckingham,

Cumberland and Amelia counties. At all these courts there were able lawyers of established reputation ; and against such competitors young men are not apt to be pitted even by their friends. A painful probation, therefore, in the beginning of the professional career, is the invariable experience of every generation of lawyers, and our subject had his share of this bitter fruit. By the end of the first year, however, he had a few cases on the dockets awaiting their turn for trial before juries. But the hour when he should be compelled to try one of these cases, seemed to him fraught with fate, and he shrunk with instinctive terror from the thought. No philosophy, nothing but dire necessity, could ever have manned him to the effort, which he knew he must make, or abandon the pursuit which he had chosen, it seemed to him now, with more temerity than judgment. At last, in Amelia Circuit Court, his first case was ready for trial, and he was the plaintiff's only reliance. It was an action of *assumpsit*, and the plaintiff's account was disputed, and the defendant had a set-off, which was also disputed, and the whole matter depended upon the judgment of the jury upon the conflicting proof. It was impossible, therefore, to make any previous preparation ; the facts must be, at once, discussed extemporaneously. While the defendant's witnesses were giving their testimony, he conned over an exordium, hoping that, getting a start, he should be able to continue with ease and fluency—for he understood the facts very well. But he was mistaken, for as soon as he had uttered his previously prepared sentences, his mind became confused, and he found himself at a dead pause without a word at command. He saw dimly a dozen lawyers, some of the most eminent in Virginia, looking on ; and, though the judge seemed not to notice his embarrassment, he thought he perceived that some of the jury, who were his friends, hung down their heads. Perfect silence reigned in the court-house, and his distress was exquisite ; his knees trembled, and he supported himself with difficulty by leaning against the bar, while his head became dizzy and his vision indistinct—obstacles apparently nearly insurmountable, by any effort of the will, to regain possession of his faculties.

He did not sit down, however, for he thought if he yielded to his embarrassment, this trial would be his last at speech-making, and he should never more have utterance. Therefore, he blundered along incoherently for a time ; but by degrees his vision returned ; he attained some degree of self-possession, went through his argument quite unsatisfactory to himself, and at last sat down, heartily ashamed of the judgment, which he thought must be pronounced upon his *debut*. The keen sense of his almost failure, as he deemed it, was a little relieved, when William S. Archer kindly assured him, that though he was greatly alarmed, his speech was, nevertheless, to the point, and by no means contemptible.

In 1817 he removed to Tennessee, and in December settled in Winchester, where he opened a law office ; and, as many of the people of the county were Virginians, they soon gave him employment. The first case in which he appeared was a dispute about opening a road. These local disputes, insignificant as they are in themselves, are often carried on with great vivacity : and to such a degree was that the case, in this instance, that the whole bar was employed against Mr. Green's client, who resisted the opening of the road, against the wishes of all

his neighbors. In the beginning of his reply, on this occasion, to the first speaker, he showed signs of that embarrassment which he was never fully able to overcome when he spoke before strangers; but this feeling soon gave way to a stronger passion, when he saw the smiles and winks of his adversaries, and perceived, from their frequent interruptions, they meant to laugh him and his client out of court. He suspended his argument to inform the bench of justices, that if they could not protect him from these irregular annoyances, he would find means to do it himself, and warned the chief offender among his opponents that he would not suffer another interruption. He then proceeded unmolested to argue his case with so much cogency and spirit, that the court, without difficulty, refused to open the road, to the great joy of his client and chagrin of the applicants.

After this, he had his full share of employment. The speech had done something to give him reputation, but his decided treatment of the impertinence of the opposing lawyers did more. In those times, and in that locality especially, the country being a new one, a readiness to support his cause by battle was as needful to a lawyer's popularity, as the ability to argue it with force and fluency.

He was now in a fair way to acquire both fortune and reputation by his professional exertions. But this pleasing prospect was, for a time, sadly clouded by his falling a victim to the fatal allurements of the gaming table—the besetting sin of the lawyers in Tennessee at that period. So completely had he been guarded in his early education from this vice, that, at his marriage, he did not even know the names of the cards, and was utterly ignorant of the games. And in his first associations with the lawyers here, he altogether abstained from play, and was never invited to join their parties.

But in the beginning of 1820, having been often thrown into the company of three very agreeable persons, he was prevailed with to make a hand at whist for amusement. A growing fondness for this pastime, instead of warning him to abstain, only led him to engage more frequently in play. At length a member of the bar, of good connections and agreeable manners, came into the circuit, and under the semblance of a passion for whist, concealed his true character, that of an accomplished professional gambler. By him Mr. Green was seduced into games of a different character, and finally to bet, and being allowed many times to win, was at last fleeced of fifty dollars. He now began to pursue his lost money, supposing the “luck” would turn, and the cards be at last more propitious. As his losses became greater and greater, his love of play became a *mania*, till at last he was never at ease unless engaged at play, and frequently for enormous stakes. This continued about three years. His business of course fell off, for it was shamefully neglected. He ceased altogether to read anything except newspapers, and a paragraph now and then in a law book, and was thus plunging along the downward road to ruin.

In the midst of this abandonment, he played one night till 2 o'clock, and on returning, at that hour, to his own house, there was a light in his wife's chamber: through the window he saw her sitting near a table, on which lay open a Bible he had given her; her eyes were turned to heaven, and tears were trickling down her cheeks. The spell

was broken. That picture of distress and pious intercession filled him with remorse. He detested himself and his companions in guilt, and loathed the unholy employment that had been the means of so much woe. He could not meet those tears and that expression of grief, and he made a noise to warn her of his approach. When he entered the room, the Bible was laid aside, his wife's tears were wiped away, she met him with a smile, and said, "I knew you would be exhausted, and have kept some refreshments warm for you." Unable to utter a word, he sat down, and mechanically took the proffered cup, but could swallow nothing, for he was choked by the strength of his emotions. He rose and took her hand, and, disclosing the utter ruin to which he had reduced her, solemnly avowed to abandon at once and forever his guilty course. She assured him that she gave up their property without a struggle, so that her husband was saved.

He played no more. In three years he had lost ten thousand dollars, equal to the value of all he possessed. A large portion of this sum remained a debt against him in bank, for he had borrowed the money to pay his losses. This was in 1824.

He now devoted himself to his professional pursuits; his returning attention to business brought clients to his office, and in a short time his practice was second to that of no lawyer in the circuit. By this time he had five children, and feeling that their education and support depended entirely on his exertions, he gave himself uninterruptedly to his profession. He was realizing enough for their wants, and trusting in that good Providence, that had not deserted him in his wickedness, he was happy in the bosom of his family, and in the approval of a guiltless conscience.

Soon after his happy deliverance from the fatal enchantment of the gaming-table, his thoughts took a religious turn; and having casually heard a sermon on the subject of the "Depravity of Human Nature," the topics of the discourse, and of a subsequent discussion with the preacher, fastened themselves upon his mind, and were constantly recurring to his thoughts, and led him, as it were irresistibly, to a serious examination of the subject, and an honest scrutiny of his own conduct and motives. This examination was kept up, with intense and growing interest, for several months, and resulted in a firm conviction of the truth of the doctrines of the Bible, in the sense of their obvious import, and in a determined purpose to submit to its teachings, and to be guided by its precepts.

Having these views, he deemed it his duty to show them publicly, which he did, by becoming a member of the Cumberland Presbyterian Church, in November, 1824. He has remained in that communion ever since, convinced that a sincere and consistent life of religious duty is the only means of enjoying true and unalloyed happiness ourselves, and of engaging us earnestly to labor for the happiness of others.

He sat for the counties of Franklin and Warren, in the Senate of the State Legislature, in the session of 1827. The angry feelings produced in Tennessee by the election of Mr. Adams to the Presidency, had not then subsided; and when Mr. Brown's resolutions, denouncing Mr. Clay's motives for voting against Gen. Jackson, came on to be debated, Mr. Green, though he had not been consulted in the preparation of the

resolutions, was selected as their leading advocate. His speech in reply to Col. Williams, was the only one delivered in the Senate in favor of the resolutions, except a few observations, upon an incidental question, from Mr. Brown. The facts set forth in the resolutions were believed by their advocates, for Mr. Clay's defence had not then appeared; nor had his statement to Gen. La Fayette, Mr. Crittenden and others, that, in case of an issue between Gen. Jackson and Mr. Adams, he would vote for the latter, been made public. But Mr. Green, in common with most, if not all others who then acted with him, has long ago been satisfied of the great injustice done Mr. Clay and Mr. Adams, at that period; and, for himself, has vindicated the candor and manliness of his character by publicly avowing, in a letter published in the Nashville Whig, in 1843, the change in his opinions.

There was nothing in the affairs of the state to distinguish that session of the legislature from others; but we owe to Mr. Green's intelligence several wholesome laws, which still remain on the statute-book, notwithstanding the proneness to change, which so much distinguishes state legislation. Among these laws are, the act requiring costs in criminal cases to be paid out of the state treasury; the motive to which was, that the counties had become almost bankrupt by the burden of these costs; the act regulating the sale of real estates to pay the debts of deceased persons, when the personalty is insufficient, and authorizing courts of chancery to decree the sale of such estates for partition; and the act appropriating one-half the capital of the State Bank to the common school fund, which was the first important grant towards that fund.

At this session the law vesting chancery jurisdiction in the judges of the Supreme Court was repealed, and instead, a separate Chancery Court was established, and the state divided into two chancery divisions, denominated the eastern and western, in which courts were to be held by the two chancellors, to be elected by the General Assembly. At the close of the session, Mr. Green was appointed Chancellor of the Eastern Division, into which he fell, though his residence was west of the mountains which separate East and West Tennessee. This point of residence, in reference to the distribution of officers in Tennessee, is the source of no little heart-burning; and, on this occasion, there were bitter complaints that East Tennessee was treated as a colony, and a stranger from west of the mountains was sent to preside in her courts.

Col. Williams addressed a circular letter to his constituents, censuring the conduct of the legislature in the election of the new chancellor, but expressing his hope, that his decrees would be free from any bias, due to the suspicious circumstances, as he styled them, that attended his election. A fortunate delay of a few days in the reply which the chancellor was meditating, brought to him letters from James Campbell, Gen. Smith, Col. Bradford, and Thomas H. Fletcher, all members of the legislature, except the last, in which his conduct in the transaction was set forth and fully vindicated.

In May, 1828, he held his first court in Rogersville; where, meeting Col. Williams, he took occasion to hand him those letters. He read them, and with characteristic frankness, returned them, accompa-

nied by a written acknowledgment of the wrong he had done him in his circular, and authorizing him to use the paper as he might deem proper. But, as Col. Williams was then engaged in a warm political controversy, in which this paper would have been an additional ground of assault for his adversaries, the chancellor never gave it any publicity : and had reason afterwards to believe that his motives were duly appreciated, as Col. W. ever afterwards, during his life, treated him, on all occasions, with marked kindness and respect.

At this period, the business of the Supreme Court had greatly accumulated, and at the session of 1831-2, Judge Catron, then on that bench, resigned, declaring that with the existing judicial force the business in court could not be dispatched in ten years. The legislature, upon this appeal, passed the law adding a fourth judge to the Bench of the Supreme Court. To this post Chancellor Green was transferred ; and he continued in this service until the session of 1835, when the government of the state was re-organized under the amended constitution. The number of the judges of the Supreme Court was now again reduced to three, to hold their offices for twelve years, and to reside respectively in East, Middle, and West Tennessee. Judge Catron, now associate justice of the Supreme Court of the United States, and Judge Green, were competitors for the Middle Tennessee judgeship, and the choice, by a considerable majority, fell upon the latter. At the termination of his first term, in 1847, he was re-elected, without opposition, for another term of twelve years.

The foregoing narrative, though hastily drawn up amidst interruptions of all kinds, will be found sufficient, it is hoped, to satisfy the curiosity of the Bar, in reference to this judge. He is an honest, frank, conscientious and religious man ; a lover of all good men, and so well acquainted with the weakness and imperfections of our nature, as to melt with pity for the faults and crimes which he is summoned as a magistrate to repress and punish.

He is well versed in the principles of jurisprudence ; in writing his opinions, his ideas flow from his pen in a clear, easy and unaffected style ; seldom, if ever, leaving the mind in any doubt of the meaning which he is attempting to convey.

The patient and fixed attention which he habitually bestows upon the cause on hearing, joined to a singularly susceptible and retentive memory, is the secret of the almost miraculous accuracy and minuteness with which his mind bears off the longest and most complicated record, at a single reading. This enviable power belongs to the fewest of mortals. It is the infallible sign of a quick and ready wit ; and he who possesses it in an eminent degree, can neither fail to be a great lawyer nor to be distinguished in any pursuit, where extraordinary intellectual vigor is the basis of success.

HON. ROBERT STRANGE,
OF FAYETTEVILLE, NORTH-CAROLINA.

THE subject of this biographical sketch is principally of Scotch, but partially of English descent. His maternal grandfather, James French, emigrated from Scotland, and settled in Dinwiddie county, Virginia, many years prior to the revolution, and married into an English family. He was a whig and a patriot. He suffered much from British aggression and Tory violence, but lived to rejoice at the sacrifices he had made.

His paternal grandfather lived and died in the city of Glasgow, Scotland, leaving a large posterity, many of whom still adorn the various pursuits and walks of life, honorably discharging important trusts, and filling with distinction places of honor in that flourishing city.

His father, James Strange, was educated for a physician, and was graduated at the University of Edinburgh. Upon obtaining his diploma, he sailed for the United States, and entered the Chesapeake Bay in 1783, in the first vessel that arrived there showing British colors after the close of the Revolutionary War. On his arrival in Virginia, he sought out Mr. French, his maternal uncle, and upon consultation with him, he resolved to abandon the practice of medicine, and embark in mercantile pursuits, in which he thought he could benefit and be benefited by his friends in Great Britain. Mr. French became his partner, and they opened an establishment in Petersburg, and for several years carried on an extensive and very lucrative business, during which time Mr. Strange married Nancy, the daughter of his partner, Mr. French. From Petersburg, Mr. Strange removed to Manchester, where his first child, Robert, the subject of this memoir, was born, September 20th, 1796. About this time he purchased and inhabited a handsome residence in the neighborhood of Manchester, called "Buck Hill," from whence he removed to the city of Richmond, and embarked largely in the tobacco trade and other mercantile pursuits. In 1801, on winding up his business, he ascertained that he could afford to retire on the profits of his mercantile career. This he determined to do in his native land. With him to will was to execute, and in the same year he sailed for Europe, taking with him his wife and Robert, and their only other child, James French.

After a visit to Glasgow, he went to Liverpool, and continued his speculations in tobacco, but these proving disastrous, he abandoned business, and again returned to Glasgow. While here, his youngest child, James French, died.

His failure in Liverpool had determined him again to try his fortunes in the United States. In 1803 he sailed for this country with his wife and surviving son, Robert. On the passage Mrs. Strange died, leaving her husband and only child, Robert, the memory of her worth and many virtues, to remind them of the treasure they had lost.

Mr. Strange recommenced business in Petersburg, was again suc-

cessful, and notwithstanding heavy losses sustained in 1808, he was still in easy circumstances. He died on the 14th day of May, 1809, leaving a widow of a second marriage, and Robert, an only and an orphan child.

During the residence of his father in Scotland, Robert, in his seventh year, was sent to a school in Glasgow, taught by a Mr. Angus. On his return to Petersburg, being then about eight years old, his father sent him to a school in Lunenburg county, Virginia, kept by the Rev. John Cameron, a distinguished clergyman of the Episcopal Church, and father of the Hon. Duncan Cameron, of Raleigh, North Carolina. At this school he remained about two years, and thence returned to Petersburg, where, for a short time, he attended the school of the Rev. Andrew Syme, who was from time to time teacher of nearly all the young males and females about Petersburg. About this time Mr. Strange purchased a country seat in Rockbridge county, within two miles of the natural bridge, where the family spent their summers. It was in the vicinity of Rural Valley Grammar School, kept by the Rev. Samuel Houston, a Presbyterian clergyman, uncle of General Samuel Houston, United States Senator from Texas. This school Robert attended until 1810, when he was removed to New-Oxford Academy by William French, Esq., late of Norfolk, his uncle and guardian, who treated him through life with the affection of a father.

New-Oxford Academy was situated near the half-way house between Richmond and Petersburg, and was taught by Jonathan Smith, under whose tuition Robert remained for about one year. Being now about fifteen years of age, and prepared for college, he entered Hampden Sydney College in 1811. The Rev. Dr. Hoge was then President of this institution. Here he remained one year, and then went to Washington College, Lexington, Virginia, where he remained another year. He returned to Mr. Houston, and under his guidance devoted nearly a year to polite and general literature, laying the foundation of that belles-lettres learning for which he has been so distinguished through life. As early as his tenth year he evinced a fondness for writing, and up to his eighteenth much of his time was spent in the composition of novelettes, essays, poetry, and fugitive pieces on various subjects, some of which are still extant, and foreshadow the future character of his mind. The pleasure of writing was with him the great inducement; for once written, he cared but little what became of his productions. At this period of his life he had a strong desire to devote himself wholly to literature as a profession, and trust to the precarious profits and honors he might win by his pen. But more prudent counsel prevailed, and he was persuaded to apply himself to the study of that profession he has so long and so ably adorned.

On the first day of April, 1814, he commenced reading law in the office of the Hon. Benjamin Watkins Leigh, in the town of Petersburg. In a few months afterward, Mr. Leigh removed to the city of Richmond. But the reciprocal ties of veneration and esteem were too strong to be severed by slight causes, and the student followed his preceptor to his new home, eager to master the principles of that science he was one day so beautifully to enforce and clearly expound. He re-

mained in Mr. Leigh's office about six months. During this time, the citizens of Richmond dreaded an attack from the British. Volunteer companies were formed, citizens were armed, and the quiet capital of the Old Dominion seemed suddenly converted into a garrisoned town. It was not in the nature of the young law-student to resist the excitement of such scenes. At the first tap of the drum, Blackstone and Coke were deserted. Unknown, and too young to be entitled to a sword, he grasped a musket, and planted himself as a common soldier in the ranks of a volunteer company, where he cheerfully submitted to every drudgery and privation, feeling honored at being deemed old enough to be trusted in that position, where, if necessary, he could strike for the stars and stripes, and the capital of his native state. The threatened invasion was withdrawn; the heights of Richmond again assumed the appearance of peace, and the young soldier reluctantly betook himself to his books. -

About this time he returned to Petersburg, and pursued his law studies with the Hon. John F. May, a distant relation. Mr. May and Mr. Leigh both treated their young student with much kindness and attention—who, ever after, retained for them the highest sense of gratitude and esteem. Whilst studying with Mr. May, his military ardor was again excited at an expected invasion of his country.

He again abandoned his studies, and aided in raising in Petersburg a company of juvenile volunteers, from 14 to 17 years of age. He was elected captain of this company, and tendered its services to the state. The Governor, after some delay, respectfully declined accepting the company; but the proud bearing and military enthusiasm of the youthful captain was too striking to pass unobserved, and the Governor tendered him a Brevet commission of Lieutenant, in an artillery company, then in the service of the state. The commission was cheerfully accepted, and the student once more became the soldier, and performed a three months' tour of duty, encamped at Petersburg, and Camp Powell's Creek. During his term of service, he devoted his leisure hours to the acquisition of military knowledge, and discharged the duties of his station in a manner that gained the approbation and esteem of his superior officers—whilst he was a great favorite with, and possessed the entire confidence of the rank and file; and for the greater part of the time, a concurrence of circumstances placed him in the actual command of the company. During the war, he kept in rhyme, a record of all the principal battles of the country, by sea and land. This record he still retains as a memento of past hopes and fears, entertained in his country's behalf, at a time when he yielded to her his best services, as he oftentimes since has done, in more exalted stations.

At length his friend, Mr. May, informed him that he thought him qualified to commence practice in the inferior courts, but that by the law of Virginia, it was necessary to procure a certificate from the county court that he was twenty-one years of age. As he was not now quite 19, this could not be obtained; but to while the intervening time away, it was suggested that he might go to North Carolina, where, probably, no inquiry would be made of his age—obtain license, and practice law in that state. Eager to enter upon the great theatre of life, he at once caught at the suggestion. In June, 1815, he came to

North Carolina, and, under the patronage of the late distinguished lawyers, Peter Brown and the Hon. Henry Sewall, he applied for, and obtained license from Judges Taylor and Sewall to practice law in the county courts. At the suggestion of Judge Ruffin, who kindly took an interest in his welfare, he opened a law office in the town of Fayetteville, county of Cumberland, N. C., intending to return to Petersburg when he attained the age of twenty-one. In the meantime, he became acquainted with Miss Jane R. Kirkland fourth daughter of William Kirkland, Esq., whose eldest daughter had been married in 1809 to the present distinguished Chief Justice of North Carolina. The acquaintance between him and Miss Kirkland, ripened into feelings of the most unbounded affection, on his part; which, in due time, were fully reciprocated by one of North Carolina's loveliest daughters. They were married on October 1st, 1817, which event determined him at once to become a permanent citizen of North Carolina.

The leading lawyers at the Fayetteville bar, at the time Mr. Strange settled there, were General Davis, Colin Shaw, Louis D. Henry, and Alexander McMillan. The records of the several courts in Cumberland county show that each of these gentlemen had a heavy practice, but all of them have paid the debt of nature; not one of the little band survives, and the young Virginian of 1815 is the father of the Fayetteville bar in 1852. That he may long continue to be so, I know is the fervent prayer of every one of its noble-hearted, high-minded members.

Like all other distinguished men, he, too, had his first case. Sampson county had the honor of affording him that, at August term, 1815. There was nothing remarkable in this case, save and except that it gave him his first fee; and in the blush of youthful modesty he took his client behind the court-house door to make the change. His maiden speech was then and there made, but he has oftentimes been heard to say, that though he spoke to the jury, yet he never saw them, and took his seat supposing he had spoken an hour, when it was only a few minutes. At September term, 1815, the appearance docket of Cumberland county court has one case interesting only, because it is the first appearance where Strange's name is marked. It is an action on the case, *Asa Beebie v. Archibald McLaughlin*. Strange appeared for McLaughlin, who is yet alive, and still rejoices in his young lawyer's success. There is no other appearance marked for him until June, 1816, when he had three cases—at September 5—at March, 1817, 35—at March, 1819, 128—June, 106, September, 101, December, 106. This simple statement from the record shows that he was now fairly afloat, and if he failed, it would be his own fault. The appearance docket shows the further fact, that during the latter years named, he instituted or pleaded for the defendants to about half of all the suits on the docket, while the trial docket bears evidence that he was now frequently called in, and associated with other counsel in the trial of causes before the jury at the trial term.

We have heard him ascribe much of his early success to the friendship of John W. Wright, Esq., the present much-esteemed Cashier of the Fayetteville branch of the Bank of Cape Fear, with whom he has lived in intimacy since his first arrival in Fayetteville. This intimacy

with Mr. Wright brought to him the kind consideration and patronage of the late John Winslow, Esq., who was at that time the most influential man in Fayetteville; and though both of these gentlemen differed from Mr. Strange in politics, yet Mr. Winslow, during the brief remainder of his life, and Mr. Wright, up to this day, have ever evinced a readiness to advance his interests.

On the 4th July, 1816, Mr. Strange was called upon to pass that ordeal which all Americans have to pass who aspire to be denominated public speakers. The morning of the fourth dawned; a large procession, composed of the military companies and the citizens, marched to the Public Hall. The young orator was under twenty years of age, of a fragile and delicate appearance, had lived eleven months in the town, and had been honored with *four cases*, all told. His heart doubtless throbbed within him; the occasion was deemed a crisis in his career.

If he failed, he felt it might be for ever; if he succeeded in giving utterance to the emotions of his own heart, he felt that all would be well. The orator rose; his voice was steady, musical, and distinct. He recounted our wrongs and sufferings, and pointed to the victories we had achieved. Grace of person, and appropriateness of gesture, lent a charm to all he said. Peace had just been declared; animosity towards our late foe still rankled in the breasts of his auditory. The orator felt inspired by the theme and the marked attention of his hearers. He touched all the chords of the human heart with a skilful hand. The effort was complete; he had risen an obscure youth: he sat down a distinguished orator.

At the next court the orator had thirteen cases, and the next after thirty-five, which is strong evidence of the character he was establishing among the citizens of Fayetteville.

On the 22d day of April, 1816, he was admitted a member of the Fayetteville Independent Light Infantry Company, a military corps formed on the 23d August, 1793, which is still a pride and honor to the town. As a private and as an officer in this company, he was faithful in the discharge of all his duties, and in due time reaped a rich reward, not only in being elected its major commandant, on the 23d August, 1823, but the friendships and attachments formed among the members of that company were of essential service to him in the closely-contested elections of 1821-'2-'3; and at this day some of his intimate associates are his early companions in the ranks of that time-honored corps. In 1825, he had the honor of being still in command of the company, when it acted as the body-guard of Lafayette on his visit to Fayetteville, and was thus brought into an intimate acquaintance with that great and good man. When Lafayette visited the Masonic Lodge, he found the chief of his body-guard presiding o'er the sons of light. In the name of the fraternity, and as master of the lodge, Major Strange welcomed the nation's guest within the walls of Phoenix Lodge. To this welcome Lafayette made a suitable response. In the ceremonies connected with the visit and reception of Lafayette, Major Strange acted a conspicuous part, and was assured by the citizens and their guest, that not only he, but the company under his command, had acted well in the stations assigned them. In 1826, when he was elected Lieutenant-Colonel of the Cumberland regiment of militia, he resigned the com-

mand of the company; but the high estimation in which he holds this venerable corps, will best appear by an extract from an address he delivered before it on December 4th, 1850 :—

“Not that I am indifferent to the subject, (of military companies, he says,) for in common with most others, I have ever loved

‘The plumed troop,
The spirit-stirring drum, the ear-piercing fife,
The royal banner, and all quality :
Pride, pomp, and circumstance of glorious war.’

“My heart palpitates with emotions I cannot express at every sound of martial music, and swells nigh unto bursting from my bosom whenever I look upon the banner of my country. Beneath the flag which you now bear, how often in my youth have I indulged strange dreams of martial glory one day to be won! And among the proudest moments of my life was that in which I marched forth, bearing on my shoulders the two epaulettes that marked me as the commander of your company. Time since then hath wrought many changes; but it hath not quenched the love of fame that then burned in my bosom, nor the pride with which I behold that banner fluttering in the breeze. May it continue to wave there in honor as long as one silken thread remains of its texture; and when that has perished through the lapse of ages, Phoenix-like may another spring from its remains, as a rallying point to the youth of our community!”

In 1818 or '19, he was elected a director in the branch of the Bank of Cape Fear, at Fayetteville, and soon after was appointed attorney for that institution, which office he held until elected judge, when the Hon. John D. Toomer succeeded him. On the removal of Judge Toomer to Pittsboro, the office was again tendered to Judge Strange, then at the bar; it was accepted, and he still holds it, discharging the duties to the satisfaction and pleasure of the directors of the bank.

In the early period of his life, he devoted much time to the higher orders of masonry, and was esteemed among the brightest masons in the state. He was elected grand master of the fraternity in North Carolina in 1823-'24. He is still a member of Phoenix Lodge, which he sometimes visits, much to the gratification of his brethren.

In 1821, the friends of Mr. Strange brought him forward as a candidate to represent Fayetteville in the House of Commons, in the legislature of the state. The representative in 1820 was John A. Cameron, the son of one of his former teachers. Mr. Cameron had also represented the town in 1810-'11-'12; but on the breaking out of the war, had volunteered, and faithfully served his country as major of the Cumberland regiment. During the war, exposure had brought on an attack of paralysis, which very sensibly weakened his powers of elocution; and, in a great measure, disqualified him for a successful practice at the bar. But he had won the esteem and confidence of our citizens, many of whom he commanded during the war. Mr. Cameron was still a man of active energetic habits, possessed of a strong intellect and much dignity of character. He was accordingly again brought forward by his friends in opposition to Mr. Strange, in 1821. The contest was fierce and violent. The friends of each candidate kept open house for a month

before the election, whilst each candidate presided with dignity over the hospitalities of his own board. This campaign is still referred to in Fayetteville as the climax to which electioneering excitement can be carried. At the close of the polls, Strange had a majority of 36 out of 364 votes polled. The compliment was the more flattering, as the federal party had a decided majority in town; and Strange had early in the campaign avowed himself a Republican, and was, therefore, indebted to personal popularity and the influence of friends for his election.

The contest was again renewed between him and Mr. Cameron, in 1822-23, but with less violence, and Strange continued to be elected by increasing majorities. So courteous was the bearing of the candidates towards each other throughout these memorable campaigns, that at their close they entertained the highest esteem and regard for each other. Mr. Cameron afterwards became Judge of the Territory of Florida, but was drowned in the ill-fated steamer *Pulaski*, in 1838. In the legislature Mr. Strange sustained his reputation as an orator, and bore a conspicuous part in all the discussions of the day, and had the honor to serve on the judiciary committee of which the late John Stanly was chairman.

In 1824 he experienced large pecuniary embarrassments by having stood surety for some of his friends. Firm in his integrity, he assumed the payment of his debts, and set to work with energy and zeal to effect his purpose. His practice in Cumberland and the adjacent counties was still large, and his income great.

In 1826 the leaders of the Fayetteville bar were the Hon. John D. Toomer, John D. Eccles, Louis D. Henry and Robert Strange. Seldom has any bar in this country presented an array of such highly gifted, eminent and distinguished lawyers. The period of their zenith is still pointed to as the meridian of its lustre and highest fame.

The writer of this memoir has often heard its subject speak gratefully of the kindness received at the hands of these, his associates at the bar, and of the pride with which he ranked them among his warmest friends.

In 1826 Mr. Strange again represented Fayetteville in the House of Commons in the legislature of the state. At this session of the legislature an election came on for two Judges of the Superior Court, one to fill the place of Judge Nash, who had resigned, but who is now an ornament to the Supreme Court bench, and the other to fill the place of Judge Mangum, our present distinguished senator in Congress, who, during the recess of the legislature, had been appointed by the Governor and Council to supply the vacancy occasioned by the death of Judge Paxton. The legislature voted for both judges at the same time—91 was necessary to a choice. On the first ballot the vote stood—Strange, 100; Willie P. Mangum, 75; James Martin, 58; Thomas P. Devereux, 39; Joseph Pickett, 45; Robert Burton, 38; scattering, 27. On the third ballot Martin was elected by a vote of 102 to 54 over Mangum.

On the 4th of July, 1826, Judge Strange delivered the semi-centennial oration. It is a masterly production, "and is characterized" (say the papers of that day) "by all the eloquence of thought, expression and delivery which constitute the finished oration." It was published

at the request of the citizens of Fayetteville, and added much to his reputation both as an orator and as a writer.

On the bench, Judge Strange was affable and courteous. He presided with great impartiality and dignity of manner; was quick to discern points, and prompt to meet and decide them as they rose. It was seldom that he reserved a point from the jury, and when they retired to make up their verdict, they usually knew the case would be decided as they found the facts, since the law was already disposed of by the judge. If an appeal was craved, it was granted as a matter of course, and the appellant knew he could take up for revision the exact points in the cause; for the judge had too much magnanimity in making up a case for the Supreme Court, either to fritter away the points, or to blend them with others, as to make counsel doubt the identity of their own case.

In his judgment he was not infallible, and like other judges who have presided in our superior courts, he has frequently been reversed upon an appeal taken to the Supreme Court. In some of these cases the Supreme Court itself was not unanimous; in others the law is now held to be as he adjudged it, either by statute enactments amendatory of the law, or by the ruling in more recent cases, where the same principle has been involved. In other cases where his judgment has been overruled, it is generally upon points arising under our statute law. So that upon an examination of all the cases decided by Judge Strange, during the ten years he presided on the bench, it will be found that he rarely violated any of the great principles of the common law or law merchant; on the contrary, it will be seen that he steered close to their great landmarks; and an analysis of his decisions will show, that when he erred it was generally from following too closely the common law, without adverting to the innovations made to accommodate it to our institutions. His errors in most instances may be assigned to the hurry of a *nisi prius* trial at points on the circuit, where authorities could not be always had, even if there had been time to consult them.

Judge Strange's decisions possess one merit greatly to be praised. There is no room left to misunderstand what he decides; his points are all strong, clear and marked, and expressed in few words. It fell to his lot, while on the bench, to decide many causes of great importance, but he never shrank from any of the responsibilities of his station, whether in the trial of civil or criminal causes. He was extremely careful never to usurp the province of the jury; but when he believed the law to be against the plaintiff, he did not hesitate to enter a nonsuit and tender an appeal to the Supreme Court.

An analysis of all the points made before Judge Strange, as reported in the North Carolina Supreme Court Reports, would form an interesting treatise, but would occupy too much space in a memoir of this kind.

He presided with much ability in the trial of the notorious Robert Potter, in Granville county, in 1832, for the commission of an offence unheard of in the annals of North Carolina criminal law up to that time. Potter was a lawyer; had served in the legislature of the state, and in Congress, during one session. On being found guilty of the offence by the jury, Judge Strange sentenced him to two years' im-

prisonment, and fined him in the sum of one thousand dollars. Appeals were made to the judge to remit the imprisonment, but he was inexorable. As an evidence of the excitement that attended Potter's trial, and the opinion of the citizens of the state upon the sentence of the judge, it is proper to state, that the next session of the legislature made the offence he had been convicted of felony, and punishable with death.

While Judge Strange was presiding in Beaufort Superior Court, in 1833, two men, brothers, had the audacity to shoot down a man in the middle of the street, in broad day, almost in presence of the judge. He was conversing with Judge Gaston at the time when the facts were announced to him. He immediately issued a precept for their arrest; but neither sheriff nor constable, nor any one else could be found to serve it, so much were these men the terror of that community. They were armed to the teeth, and swore they would not be taken alive. Judge Strange was resolved that the law should be supreme, even if he fell in upholding it. He summoned the late distinguished lawyer, Gavin Hogg, Esq., and Wright Stanly, Esq., now of Mobile, to arrest the one, whilst he proceeded to arrest the other. As they approached on their mission, the men maintained their position in a dogged, sullen manner. Judge Strange caught the eye of the one: he advanced upon, and requested him to surrender his bowie knife and submit to the law; an inward struggle for an instant seemed to be going on in the man's breast, but his bravado spirit was subdued in the controversy with a man his inferior in bodily strength, but rendered for the time his superior by the justness and importance of his cause. He yielded his implement of death, thinking it no disgrace to surrender himself to the highest officer of the law. Mr. Hogg and Mr. Stanly were equally successful in arresting their man. The man who was shot did not die. The assailants were tried before Judge Strange, at the same term, and found guilty—one he imprisoned for one, and the other for two years. During his imprisonment the latter reformed and studied medicine in jail, and became a respectable and useful member of society.

We might record many instances where Judge Strange modified his judgment to correspond with what he deemed the temper and character of the offender—and rarely was he deceived. On one occasion, a young man was indicted and tried before him for an aggravated assault. But he was young; had acted violently to avenge the real, or supposed, wrongs of a father; and there was that in his countenance and demeanor that marked a spirit that imprisonment might render desperate, but could never quell. The Judge felt the responsibility of his position; that he might now, by a single act, fix the future destiny of no ordinary man. He was anxious to maintain the sanctity of the law, and yet save, if possible, its victim from ruin. After some hesitation, he declined to imprison, but imposed a considerable pecuniary fine, gave the youth some good advice, and dismissed him. That man has since been a prominent member of the United States' senate from one of the other states.

In the fall of 1835, Judge Strange rode the fifth judicial circuit, which includes the town and county in which he resides. During the time he was on the circuit, a melancholy affair took place in Fayette-

ville, which terminated in the death of a man by the name of Hubbard. The parties charged with the homicide were men of high character and influential families in the place. They pleaded upon the examination before two justices a warrant to apprehend him, "dead or alive." This satisfied the justices, who took their recognizance to appear at the ensuing term of Cumberland Superior Court. This gave great dissatisfaction to a portion of our citizens, and the town was in a ferment of excitement for several days. In the mean time, the friends of the deceased had made the necessary affidavit before Judge Strange, who issued a bench-warrant, returnable before himself, at Rockingham, in Richmond County. The defendants appeared before him; one he committed to jail, the others he allowed to give bail for their appearance at court.

In six weeks afterwards, the fall term of Cumberland Superior Court was in session, and Judge Strange presiding. He would gladly have avoided the trial of these men, who were all his townsmen and friends, but the state and the prisoners were ready for trial, and it was not in the nature of the Judge to shrink from a discharge of his duties. Dillon Jordan, Esq., afterwards Judge of the Territory of Florida, was employed to assist Solicitor Troy in the prosecution. The Hon. John D. Toomer, John D. Eccles, and Louis D. Henry conducted the defence. The Grand Jury had found a true bill against four only, and had *ignored* it as to all the others charged. Three of the four were put upon their trial, in the midst of the greatest excitement it is possible to imagine. During the trial, it required all the powers and faculties of the Judge to moderate the fiery zeal of the prosecution and defence, as point after point was made on the relevancy or admissibility of the testimony offered. But he was fully equal to the task, and his patience, calmness, impartiality and ability, won the admiration of all present. When the testimony closed, Mr. Jordan opened the case to the jury, in what was said to be the ablest speech he had ever made at that bar. It was fierce and violent. He rang all the changes upon the cant phrases developed in the case, such as "the rich against the poor," and appealed to the passions and prejudices of the jury to avenge the blood of the deceased. The defence was characterized by all the masterly ability, adroitness, talent and eloquence that Toomer, Eccles and Henry possessed: episodes and incidents in the lives of some of their clients were beautifully brought to bear in their behalf; scathing irony and withering sarcasm, blended freely with impassioned appeals to the mercy of the human heart, should doubts be entertained of the prisoners' guilt. The charge of his honor was clear, calm, lucid and direct. The law upon the grades and kinds of homicide was plainly and distinctly stated. The law upon the points of evidence that arose was concisely and ably explained, and the several facts were briefly assigned to the jury, for their finding, in the simplest form. Even now, the scene rises fresh before the mind of the writer. It was the first trial he had ever witnessed—the first time he had ever been in a court-house—the first time he had ever seen Judge Strange, or any of the distinguished men engaged in the case. A new world had opened before him. During the recess of the jury, the Judge remarked to the excited crowd, that any manifestations of feeling on the return of the

verdict, would be highly improper. That, so far, he had never known it happen in North Carolina; and for the honor of the town, he hoped the example would not be set upon that occasion. In about twenty minutes the jury returned a verdict of acquittal. The stillness of death pervaded the vast assemblage. With others, the writer retired in silence; but, though then an apprentice-boy, he solemnly resolved, if life lasted, he would one day practice law.

At the session of the Legislature for 1836, Judge Strange was elected, on the 5th December, to the Senate of the United States for the unexpired term of Hon. W. P. Mangum, who had recently resigned. Though the term was short, and would expire on the 4th March, 1837, he did not hesitate to accept the appointment, but immediately resigned his commission of Judge and hastened to Washington City, and entered upon the discharge of his new duties. In the mean time, the Legislature elected him for the full term of six years, commencing 4th March, 1837. On his election to the United States' Senate, the leading Whig papers in North Carolina did him the honor to say, "that since a Democrat had to be elected, they preferred him to any other in the state"—so much had his private virtues disarmed political hostility. On this extended theatre, it is not our purpose to follow him. He took an active part in all the discussions of the day, and his history during that time is legibly written in the debates and on the journals of the Senate. Were we to follow him, it would only be to award him honesty of purpose, integrity of principle, true patriotism, varied and extensive learning, and distinguished ability. This done, we would feel bound to object to many of the measures he advocated, for we have never been of his school of politics, but, on the contrary, have always endeavored to be a consistent Whig.

Judge Strange resigned his seat in the Senate of the United States, in November, 1840. On the 25th of the same month the Hon. William A. Graham, the present Secretary of the Navy, was appointed to succeed him.

On the 22d day of February, 1832, at the request of the citizens of Fayetteville, Judge Strange delivered an address on the centenary celebration of the birth-day of Washington. This he declined publishing, but the writer has often heard it referred to as a production worthy of the orator, the subject, and the occasion.

In June, 1837, he was called upon by the Dialectic Society, of which he is an honorary member, to deliver an address before the two literary societies of the university of North Carolina. Gaston, Badger, Iredell, Pinckney, and a host of others, had preceded him in this most difficult of all tasks. Conceiving that more obvious topics had been exhausted by his distinguished predecessors, he ventured to beguile the passing hour with some reflections on the imagination. His expressed object was to mingle instruction with amusement. He seemed conscious of the difficulty of the task, as well as of the extent of the field on which he had entered: but claiming the privilege to roam through it in freedom, skimming the surface of its beauties, or gathering useful honey from its flowers, he proceeded to the completion of his design. He accomplished what he undertook. Thoughts bright and beautiful are eloquently blended with scientific principles explanatory of the

philosophy of the mind. Here and there may be detected transcripts of the author's own thoughts and feelings, in scenes beautifully portrayed. The address bears the impress of genius, is deeply imbued with sound and wholesome thought, and forms an imperishable record of the author's powers of observation, and analysis of the motives that operate on the feelings, and control the mind.

In 1834, on the death of Lafayette, he was requested by the citizens of Fayetteville to pronounce his eulogy. It was esteemed a highly finished and able production, but Mr. Strange declined having it published. In July, 1840, he had the honor of delivering an address before the Peithessophian and Philoclean Societies of Rutgers College, New-Jersey. This address was published at the request of the Peithessophian Society, at which instance it had been delivered by Mr. Strange as one of its honorary members. This address found its way into the papers of the day, and was much praised for beauty of thought and expression, as well as for the maxims of wisdom it contained. At this time Rutgers College conferred upon him the degree of LL.D. The writer has frequently heard him express his high sense of the kindness shown to him by the faculty and students of the college, as well as by the citizens of New-Brunswick generally; and his admiration of the handsome manner in which the Commencements are conducted at the institutions of New-Jersey, as well as the courtesy there shown to strangers.

In 1849, he delivered an address before the societies of Davidson College, in North Carolina. This address is generally considered the best he ever made, in every essential that constitutes the finished oration. It breathes a lofty patriotism, and abounds in wise and prudent counsel to his young friends. It was published at the request of the Philanthropic Society, at whose instance it was delivered. While in the Senate he published a novel called Eonyguskee, which competent judges praised as a work of merit, but through mismanagement on the part of his publishers, it never obtained an extensive circulation in North Carolina, though the edition has long since been sold out.

On his retirement from the Senate of the United States, Mr. Strange hastened home and resumed the practice of the law in the fifth judicial circuit. Clients flocked around him, and in a short time his practice was greater than at any former period in his career. Solicitor Troy having paid the debt of nature, the Legislature elected Judge Strange solicitor of the fifth judicial circuit in 1842. This appointment he held until 1846, when, by a party vote, the Legislature conferred the office on Thomas S. Ashe, Esq., of Wadesboro, who held it until 1850, ably and faithfully discharging its duties; when the Legislature, by a party vote, again conferred it on Judge Strange. This office he now holds, and in connection with it, the writer has listened to some of his highest forensic efforts.

Judge Strange was highly blessed in his conjugal relation. The soft and placid nature of Mrs. Strange soon assimilated to his own, and her chief joy in sublunary things was associated with his success in life. In return, he lavished upon her the devoted affection of his warm and ardent heart. The fruit of their union was seven children. The second eldest, a female, died in infancy. The others are named James, Robert, Margaret, John, Alexander, and French.

On the 21st October, 1835, Mrs. Strange gently breathed her last, and her eulogy is being daily written in the character and conduct of her amiable and lovely children. Few men have enjoyed more happiness in their families than Mr. Strange. James is a planter in Cumberland County. Robert, at one time paymaster in the United States' army, is now successfully practising law in Wilmington, N. C., in co-partnership with his cousin, Duncan Kirkland McRea, Esq. John has just commenced his career at the bar, in Fayetteville. Margaret is married to the Reverend Joseph C. Huske, a promising and eloquent clergyman of the Episcopal Church, now Rector of St. John's Church, Fayetteville. French is pursuing his studies at school. Alexander, a youth of great promise, died in the blush of manhood, in the city of Glasgow, Scotland, in 1851, whither he had gone to the land of his fathers to pursue the study of medicine. Judge Strange is still a widower, and resides at Myrtle Hill, a country seat in the neighborhood of Fayetteville, where he has resided for many years.

On the death of the late distinguished William Gaston, one of the judges of the Supreme Court of North Carolina, in 1844, the members of the Fayetteville bar requested Judge Strange to pronounce his eulogy. He cheerfully consented, esteeming it a holy and filial duty to say what he knew of that highly-gifted and distinguished man. At the request of the members of the bar, the eulogy was published, and is among the most highly-finished and beautiful productions of the kind.

Adjoining Judge Strange's residence, he owns an extensive plantation, and during his leisure hours takes much pleasure in agricultural pursuits; but the writer questions whether his farming operations have been profitable, except in the improved condition and enhanced value of his land. He recently delivered an address before the Cumberland Agricultural Association. His description of the streams and extensive pine forests of Cumberland is beautiful in the extreme. The occupation of agriculture itself is ennobled above all others, and many useful hints and suggestions of a practical and theoretical kind, are embodied in this address. It bears evidence to the versatility of his genius and his industry in pursuit of knowledge of every kind, whether connected with scientific theories or the practical details of life.

His mind is deeply imbued with Grecian and Roman literature, and his earlier efforts bear marks of familiarity with heathen mythology. He is deeply versed in English and American literature, and has kept himself well informed of all the new inventions and discoveries of the age. He is thoroughly conversant with parliamentary law and usage. Judge Strange has ever taken a deep interest in works of internal improvement in North Carolina: and in primary meetings and conventions his time and talents have been devoted to awakening attention to this subject among the people of the state.

He has for many years been a communicant of the Episcopal Church, and everything connected with her welfare and prosperity has received his most devoted attention and hearty co-operation. He is a well-read Bible scholar, and frequently draws from it some apt illustration of the subject on hand. In the family circle he is beloved beyond expression, and in the private walks of life few men are more esteemed. He is of a warm, generous, and impulsive temperament—reliable in friendship,

firm in integrity, and conscientious in the discharge of every duty attached to his station.

Judge Strange possesses a fertile and glowing imagination, a brilliant fancy, great command of language, easily and gracefully uttered in a voice whose tones are rich, musical and distinct. He speaks slowly, and in measured tones, until he becomes fired with his subject, when enunciation becomes more rapid, and terminates in an impassioned burst of pure eloquence. His powers of comparison are very great; consequently, he is never at a loss for figures to illustrate and enforce the principle he is advancing.

In the trial of Barfield, for the murder of a man by the name of Flowers, at Cumberland Superior Court, 1847, Judge Strange prosecuted, and the Hon. George E. Badger, United States senator, from North Carolina, the Hon. John D. Toomer, and William B. Wright, Esq., conducted the defence. Judge Badger, who is admitted by all to be a man of transcendent ability, in his address to the jury, asked them to lay aside feeling, and become pure abstract reason, and try his client by *reason* alone. Judge Strange followed, and combated the doctrine as dangerous in its tendency, and asserted that man should be tried by men—that man was not man when divested of any of the constituents of the miraculous compound, and delivered a most beautiful episode on the constituents of a perfect man. He then followed, Judge Badger into his chosen ground, and delivered the strongest, if not the most eloquent, speech we ever heard him make. Barfield was convicted; and a friend remarked to us on the occasion, if Strange is not a great man, it is singular that in all his contests with great men, he at least proves himself their equal.

On the trial of Mrs. Simpson, for poisoning her husband, at Fall Term, 1850, of Cumberland Superior Court, he displayed great moral courage and powers of eloquence. In a report of that exciting trial, published at the time, the writer says: "It was soon discovered that all the attributes of his nature were in the subject. His impulsive temperament for a time bore him on over all impediments, and by the pathos of his quivering voice and softened accents from a feeling heart, drew tears from many an eye unaccustomed to weep." "After an analysis of the legal and scientific evidence with a high degree of moral courage, he marched up to the suspicious circumstances, grappled with them, and from his prolific powers, assigned reason after reason for the prisoner's conduct being consistent with innocence. In doing so, he disclosed powers of the highest oratory, and every chord of the human heart was touched by a master hand. His feelings were frequently overcome, his utterance choked, and many a manly cheek was bathed in tears. He spoke three and a-half hours." Mrs. Simpson was acquitted. It is proper to state, that he had associated with him in this cause D. K. McRae, Warren and John Winslow, Esqrs., the two former of whom only (by arrangement) spoke, and delivered truly able and eloquent speeches in their client's behalf. Solicitor Ashe was assisted in the very able prosecution by the Hon. James C. Dobbin.

At the bar, Judge Strange is an agreeable, pleasant, and instructive companion. To the younger members of the profession, he is courteous, kind, and considerate. If they chance to be associated with him,

he kindly pushes them forward, until they almost feel he is attaching importance to their aid in the management of the cause. In the meantime, he watches closely, and weighs carefully their skill and ability to sustain themselves and advance their client's interest. Should he find them unequal to this, he soon assumes the post of senior counsel, but in a manner so affable and mindful of feeling, as to cause the change to be unnoticed. In the excitement of a trial, his mind acts with incredible rapidity, and points that have been entirely overlooked in a consultation at chambers, suddenly flash upon him ; and his inventive faculties rarely fail to supply and cure the oversight ; and the conviction is entertained by many, that excitement and trying positions but add fresh power to his intellect, and secure his safest judgment. Be this as it may, he relies on no momentary visions to reveal truth to him, or to ensure success : for he is the most laborious and indefatigable student on the circuit, unless it be his distinguished and veteran compeer, Judge Toomer. Twice a year he rides the entire circuit, which embraces twelve counties ; and during the recess, he attends several of the county courts. He attends the United States Federal Court in Raleigh, and has a heavy practice in the Supreme Court of North Carolina, as he has in every court he attends. So that his life has been one of incessant labor, toil and action, for many years ; and few constitutions could have remained unimpaired under the incessant labors he has performed. But he is still "hale and hearty" in body, and his mind is as strong and vigorous as it ever was. This can only be accounted for on the principle that he does but one thing at a time, and to that thing, whatever it may be, he devotes all the energies of his ardent and impetuous nature ; and when it is done, he deems it well done, and dismisses the subject to make room for something else. In this way, the energies of his mind are not impaired by lingering on and reviewing past labor, as many do even after the deed and its consequences have acquired vitality, and live beyond control. Whatever he has accomplished in literature, has been done in moments snatched from labors such as we have attempted to indicate ; and the wonder is, that his productions have been marked with so much care and beauty of composition.

Since we commenced writing the above memoir, we have seen the name of Robert Strange, of North Carolina, mentioned in several papers as a suitable democratic candidate for the office of Vice-President of the United States. As a whig, we can only say, if a *democrat* must be elected to that high office, we know of no one more competent, no one we would rather see in that exalted station than Robert Strange, a man emphatically from and of the people, the architect of his own fortune, and the founder of a brilliant and lasting fame.

HON. OLIVER S. HALSTED,

CHANCELLOR OF NEW-JERSEY.

OLIVER SPENCER HALSTED was born Sep. 22d, 1792, at Elizabeth Town, Essex County, New-Jersey.

His parents were both of English descent. His father was a descendant of one of two brothers of the name, who settled in the state of New-York; one of them on Long Island. A son of the latter settled in the neighborhood of Elizabeth Town, on a plantation bordering on the Sound between the Jersey Shore and Staten Island, afterwards called Halsted's Point.*

The subject of this memoir is of this branch of the family. His mother was a daughter of Oliver Spencer, who married a sister of Col. Aaron Ogden, of Elizabeth Town.†

His father studied law with Col. Ogden, but did not pursue the profession.

Our subject entered the junior class at Princeton College, in Sept., 1808, and was graduated in 1810, receiving an honorary distinction, and delivering an oration on politics, the subject assigned to him. He entered, immediately after, the office of Col. Ogden as a student at law; and after pursuing his studies there for about two years, went to the law school at Litchfield, Connecticut, then under the charge of James Gould, where he remained during the term occupied by a full course of lectures. He then returned to Elizabeth Town, and completed his term of study in the office of Col. Ogden, the term necessary for admission to an examination for Attorney's license being then four years for graduates. He took his Attorney's license in Nov. 1814, and married a few days after. He took his Counselor's license in Nov. 1817, three years' practice as an Attorney being necessary for admission to examination for Counselor's license.

In the winter of 1820, at the solicitation of connections residing there, he went to Huntsville, Alabama, and shortly after arriving there, formed a connection in business with John McKinly, then the leading practitioner at that bar, and now one of the Judges of the Supreme Court of the United States. His family followed the next fall. He remained there about two years and a half in active and lucrative practice.

* This was the scene of an incident which conferred on Miss Halsted the honor of a toast at Washington's table. A marauding party from Staten Island were about driving off her father's cattle, when the young lady discharged a musket from an upper window, for the purpose of giving the alarm.

† Oliver Spencer, who resided at Elizabeth Town, was one of the extraordinary number of officers which that town gave to the continental army. In the winter of 1775-6, he was of the party who, in a small coasting vessel, captured the British supply ship "Blue Mountain Valley," off Sandy Hook; an incident mentioned in the memoir of Col. Ogden, in the National Portrait Gallery.

He afterwards became a Colonel in the line of the Continental Army. He was in the battle of Springfield, where his horse was shot under him; and commanded his regiment at the battles of Brandywine and Monmouth.

He has frequently spoken of a cause which he argued at Cahawba, then the capital of that state, before the District Court of the United States, involving \$10,000 alone, against Mr. Hitchcock, then Attorney General of Alabama, and Mr. Hutchinson, a counselor, residing in Huntsville, as an instance in proof, that youthful temerity or sanguineness may sometimes be induced to submit to the imposition of a responsibility, which the prudence and experience of riper years would decline to assume. Their client refused to employ other counsel, and his partner preferred to remain in Huntsville, to attend to the business in the court, which was to sit there at the same time. Happily, his anxiety and responsibility were relieved and compensated by success. In the summer of 1823, he returned to Elizabeth Town, and resumed his practice there. In 1827, he was elected to the Legislative Assembly of New-Jersey from the county of Essex, receiving every vote polled except one: his own vote was polled.

In the summer of 1828, he was appointed by Governor Williamson to the office of Surrogate of the county of Essex, to fill a vacancy occasioned by the death of F. C. F. Randolph, Esq.; and in the fall of that year, was appointed to that office by the legislature for the term of five years. In the spring of 1829, he removed to Newark, where he has since resided.

At the expiration of his term of office, the party of opposite politics having come into power, another person was appointed to the office of surrogate, and Mr. Halsted remained in Newark, and applied himself to his profession.

At this time, 1833, party politics ran high, and, after he left the office of surrogate, Mr. Halsted's voice was soon heard in political assemblies.

In 1834, the whigs of Newark determined to have a whig Fourth of July celebration, and Mr. Halsted was selected as the orator. A copy of his address on that occasion was requested for publication, and published.*

* The following notice of this address appeared in the whig paper of Newark: "After the usual introductory exercises, Oliver S. Halsted, Esq., pronounced an oration, which was listened to for an hour and twenty minutes with the most profound attention. It would be difficult, within the brief space allowed us, to convey an adequate idea of this admirable address. The orator briefly reviewed the grounds of controversy which now divided the country. He traced the history of the great whig controversy, the struggle between popular rights and executive power, for the last 600 years, from the period when our British progenitors extorted from the crown the celebrated *grant of privileges* down to the last great step taken by the whigs of the American Revolution, when to a declaration of rights they added the truth, that government holds all its powers only by grant from the people; in short, that the *rights* are in the people and the *liberties* in the government. This is precisely the reverse of the old English doctrine; and having established this, the speaker proceeded to say, that the question now presented to the people is, what liberties the executive had taken with their rights, and whether they were prepared to submit to his usurpations. In pursuing the inquiry he briefly examined the protest; (of Gen. Jackson;) showed that the executive had taken liberties—assumed powers not contained in his grant; and eloquently brought the Senate into view as being in the breach, nobly contending for the constitution. His allusion to Mr. Frelinghuysen, (then a senator from New-Jersey,) who occupied a seat with the invited guests on the stage, was responded to by the audience in the warmest expressions of enthusiasm."

In the fall of 1834, he was elected to the legislative council of the state. In the whig nominating convention for the county, after the candidates for the House of Assembly were selected, one of which was from Newark, Mr. Halsted's name was proposed as the candidate for council, and he was nominated with unanimity. In April, 1840, he was elected Mayor of the city of Newark.

In 1844, he was elected a member of the convention for revising the constitution of the state, and served in that body.

Among other reforms ingrafted in the new constitution, was that separating the offices of chancellor and governor. Under the old constitution, they were united in one person, appointed annually; the Court of Chancery being, as a consequence, unstable, and somewhat unpopular.

Under the new constitution, the appointment of chancellor is made by the governor, with the advice and consent of the senate, for seven years; the position being clothed with responsibilities and powers, rendering it the most prominent and honorable in the state.

The convention for framing the constitution being the result of a compromise between political parties, and its adoption by the people considered certain, the question at once arose, which one of the many distinguished lawyers, deemed to have claims to the position, should first be called to the "wool-sack," with a view of securing the permanency and popularity of that branch of the state judiciary.

Many candidates were named; among the number, Mr. Halsted was early designated by Governor Williamson as peculiarly fitted, by disposition, temperament, and legal acquirements, to fill the station, and as being his choice.

Although the governor did not live to see his wishes in that respect realized, yet his expression of opinion, standing, as he then did, the acknowledged head of the bar, and having filled the office of governor and chancellor, under the old constitution, for some fourteen years, to the entire satisfaction of all parties, had no small influence in bringing about the desired result.

On the death of Governor Williamson, in the summer of 1844, he was appointed, by the bar of New-Jersey, to pronounce an eulogy on

"In rehearsing the manifold usurpations of the executive, the orator alluded to that other monstrous assumption of the party in declaring themselves the true democracy of the country; and inquired with inimitable sarcasm, how long it was since the democracy had become fond of granting power to the executive, and especially over the public treasure. By a happy personification, he imagined the spirit of old Democracy standing in the rotunda of the capitol, sending its voice through all its halls, declaring that Congress, the Representatives of the people, are responsible for the sufficiency of the reasons why the public treasure is elsewhere than where the law placed it. Catching the sound, the executive boldly marches into the rotunda with this protest in his hand, reading from that famous text book of executive prerogative—"I am the direct representative of the American people—of all the American people—I am responsible for the treasure." Startled at the sight, the jealous spirit indignantly exclaims—"You the representative of all the American people! You fill all this great building! What a monster! [The bank was called the monster in that day.] The effect was electric; and the loud and long continued applause of the audience testified to the truth and beauty of the illustration. But we cannot pursue this most able address. The public will, we hope, soon have an opportunity to read it at length."

the character of that distinguished lawyer. The address delivered on that occasion was published at the request of the bar.

In February, 1845, he was appointed chancellor under the new constitution: which officer is, by the new constitution, president of the Court of Errors and Appeals.

Mr. Halsted's term of office expired on the 5th of February, 1852, and he has resumed the practice of his profession, at Newark, his place of residence; presenting another illustration of the beauty and perfection of our republican system, which offers the highest honors as the sure rewards of merit and ability, and extends the "well done, good and faithful," to him who, having filled the measure of his duty, mingles again with his fellow citizens in the daily walks of life.

HON. JOHN C. HUMPHREYS,

JUDGE OF THE ELEVENTH CIRCUIT OF TENNESSEE.

WHEN a distinguished Lord Chancellor of England was, by kindly counsel, preparing the mind of a young novice in the study of the law, for the dreadful discouragements which would beset his progress, he compared it to the act of climbing the steep declivity of a mountain on his estate, near the sea-shore, whose summit overlooked the sea. "If it will be toil and labor to you," said he,— "and it will be so,— think as I do, when I am climbing up to Westhill, that the world will be before you when the toil is over." How many of those who, after years of patient toil and industry, have become

"The lights and landmarks on the cliffs of fame;"

dignifying while they illustrate the jurisprudence of their country, when, in their earlier years, their hearts faint within them, and their courage fails, at the prospect of the immense labors before them, have had their dying energies fired by the reflection, that "the world will be before me when the toil is over!"

The lawyer who begins the voyage upon his sea of intricacies, and looks for fame and thrift without toil and trouble, will find himself ere long quite as luckless as the foolish mariner who, lying idly on the deck, essayed to navigate the seas without a turn of the wheel or a change of sail. The deceptive breeze which wafts him out of port may last for an hour or a day, but ere long the breakers and the tempests come, which demand the muscles and the skill of hands inured to toil.

The subject of this sketch adds another to the list of triumphant examples of what patient, well-directed toil, combined with unvarying moral rectitude, will always surely achieve in the pursuit of professional excellence.

Though yet comparatively young, Judge Humphreys has already carved out for himself an enviable niche in the temple of juridical fame, for the excellence of his attainments, and the many high qualities which brighten his personal and judicial character.

He was born in Lexington, Ky., on the 1st day of June, 1813. His father, Charles Humphreys, was a native of Virginia, who came at an early day to Kentucky, was a lawyer at Lexington, Kentucky, where his industry, great integrity, and purity of morals, secured for him a lucrative practice, which he enjoyed until the day of his death, which occurred on the 2d day of October, 1830. The mother of Judge Humphreys was Sarah Cowan, whose father, one of the pioneers of Kentucky, was an active participant in the stirring scenes which gave to that gallant state the early *sobriquet* of "the dark and bloody ground." At a very early age, Judge Humphreys betrayed a fondness for books, which, in view of his delicate physical constitution at that time, his parents were obliged to check, fearing its effects upon his health. The handsome fortune which his father had earned as the fruits of his professional labors, was, shortly before his death, swallowed up by an unfortunate endorsement, which left his children to work out their own welfare, without the smile of patronage or wealth, dependent alone upon their own native energies. Judge Humphreys received his education in Lexington, spending two years at the Transylvania University while the Rev. Alva Woods was its president. He afterwards entered the law department of that institution, while the Hon. Daniel Mays had control of that department, and received the degree of Bachelor of Laws in the same, on the 22d day of February, 1834. Toward the close of that year, in the 22d year of his age, he removed to Tennessee, and established himself at Dover, a small town in Stewart county, situated on the Cumberland River. At the time of his arrival at Dover, he had fifteen dollars in money, about twenty volumes of law-books, and a horse, for which he had given a Kentuckian his promissory note for forty dollars. This comprised his all of earthly goods and chattels; but with an energy which knew

"No such word as fail,"

he dedicated himself to those systematic habits of diligence, which have marked his whole subsequent career, and which soon commended him to the confidence of the people of Stewart county; and in due time, secured for him a reasonable share of practice. At this time the county courts in Tennessee had criminal jurisdiction of all offences under the grade of petit larceny, and the Attorney-General had the duty assigned him of charging the grand jury. Mr. Humphreys being inexperienced in debate, extremely diffident, and anxious to avail himself of every opportunity to overcome the same, accepted the invitation of the Attorney-General to charge the grand jury for him. This duty he performed in such a manner, as at once to secure the respect of the people and the bar; and, on the very day after he distinguished himself thus, an old and highly respectable member of the bar, in full practice, came to him and offered him a partnership for that county, which he accepted, and which was continued greatly to the advantage of each, until the death of his partner, which occurred afterward. In the year 1838, he removed to Somerville, Tennessee, at the solicitation of his relative, West Humphreys, Esq., late Attorney-General and Reporter for Tennessee, who was then in the full tide of professional prosperity, and who offered him a partnership on equal shares, which he

accepted. This partnership terminated one year afterward, by the election of his senior to the Attorney-Generalship. Since that time, Judge Humphreys has resided in Sommerville, greatly beloved for his exceeding purity of character and social virtues, and greatly admired for his profound legal attainments.

For his success as a practitioner, he was indebted more to his legal acquirements and the patient industry with which he seemed to give his whole energy to the cause of his client, than to any uncommon gifts as an advocate. His style as a forensic debater, partook rather of the practical and useful, than the ornamental; eminently plain, but clear, close and logical. He labored to convince the judgment of the court and jury by cogent philosophical argument, never summoning to his aid any

“Florid prose, or honeyed words of rhyme.”

During many years of association with him at the bar, the writer of this sketch, though he has heard him in every variety of case, does not remember a solitary instance in which he attempted the slightest rhetorical display; but wholly absorbed in the cause of his client, and totally oblivious of self, he seemed to labor alone to convince the court that the law and the facts were with him. He believed, with the lamented Gaston,* that “every motive that can be addressed to a good heart and a sound head, concurs to impress upon a lawyer the conviction, that he owes to his client the utmost fidelity. Charged with the interests of one who is unable to act for himself, he is faithless to his client, if he leaves any honorable means unexerted to secure and advance those interests,” and that “there is no mode so sure of rising to eminence in the profession, as the exact, punctual, prompt and steady discharge of his duty.”

His intercourse as a lawyer with his professional brethren, was always instructive and agreeable. Being purely a lawyer, and caring for and knowing little without the pale of his profession, his conversation, generally absorbed by professional topics, was occasionally enlivened by an anecdote, always however of a juridical character. To the younger members of the bar he was endeared by many reminiscences of courtesy and kindness; and in social life, before his elevation to the bench, common consent had created him their supreme appellate tribunal, upon all questions of law mooted among them, and his opinion definitively settled all their fireside litigation.

His profession, the idol of his early love, he has faithfully pursued from the time he entered it, never turning to the right or the left for any allurement, or combining it for a day with any other avocation whatever.

On the 24th of February, 1842, he was united in marriage with Miss Sandol F. Battle, daughter of Col. William Battle, a highly respected citizen of Shelby county, in Tennessee, with whom he has since lived in the enjoyment of the utmost domestic felicity.

Several times appointed by the executive of Tennessee, especial judge for his circuit, he was, on the 13th day of November, 1849,

* Letter to a Young Lawyer.

elected, by the legislature, Judge of the Eleventh Judicial Circuit of Tennessee, for eight years, which office he now holds.

The learning, industry, and dignity of character, which shone out so conspicuously in his professional career, had given to the bar and the people of Tennessee an earnest of the high qualities with which he now adorns the judicial ermine.

With due and proper regard to expedition in the transaction of the public business, he is yet never hasty, impatient or irritable, blending with a graceful suavity, a proper dignity of manner, which never fails to command, even in the most trying emergencies, the respect due to his position. Inflexible in his judicial opinions, and firm in all legitimate exactions of official duty; yet in the enforcement of order, he never does an act which approximates official tyranny, or which is not palpably required by official responsibility.

Endowed with exceeding conscientiousness, and great kindliness of nature, he never hesitates to discountenance a prosecution which he discovers to be frivolous or unjust.

Always a most laborious student, his greater leisure since his elevation to the bench, enables him still more intensely to pursue his studies, and thus still the better prepare himself for some yet more elevated position, which all auguries bespeak for him, at no very distant day.

HON. PIERRE A. ROST,

JUSTICE OF THE SUPREME COURT OF LOUISIANA.

PIERRE ADOLPHE ROST was born in the Department of Lot et Garonne, in the then Republic of France, and was the eldest son of Jean Jacques Rost and Sophie Delas. His father was a Huguenot, and in favor of the new order of things. During the Reign of Terror, he had been entrusted with authority which the weight of his personal character enabled him to exert on the side of mercy, when it was most dangerous to be merciful. His mother was a Catholic, and belonged to a family warmly attached to the fallen dynasty. The first political discussions he had were with his uncles, on the maternal side; and as he invariably had the better of them in argument, they came to the conclusion that he was a *mauvais sujet*, and that poor Sophie would have trouble with him.

His father thought differently. He had confidence in his son, and treated him from infancy as a companion and a friend. He was fond of appealing to his imagination, and of conversing with him upon the lives and actions of distinguished men. He dwelt with particular pleasure on the life and character of Franklin, whom he greatly admired. Franklin's republic was frequently mentioned, and the good old gentleman might easily have been led to believe that every citizen of it was a Franklin.

After receiving the rudiments of education at and near home, young Rost was sent to college, first in the old Roman city of Cahors, and afterwards to the Lycee Napoleon at Paris. He passed his examination for the Polytechnic school, when he was little over sixteen years

of age, and was classed and admitted as the nineteenth of the successful applicants. Soon after his admission, his father died suddenly. This loss was so seriously felt by him, that it affected his health, and for a long time depressed his spirits.

At the beginning of the ensuing year, the allied armies first crossed the Rhine, and invaded France. The entire battalion of the Polytechnic school asked to join in repelling the invasion, and was attached to the garrison of Paris. Its conduct and admirable discipline at the battle, under the walls of that city, on the 30th of March, 1814, won the respect and the admiration of the enemy. Young Rost stood at the right flank of the battery when it was charged by a body of Bavarian cavalry, and the men at the guns compelled to retreat, until they succeeded in turning against their assailants four of the guns on the left, which mowed them down like grass, and cleared the battery before the guns could be spiked. Each then returned to his post, and continued to annoy the enemy long after the other positions had been surrendered, and until the order to retreat was passed; so that it may be said that the subject of this notice fired the last shot for the deliverance of his native land. He then retreated with the army of Paris, and joined the Emperor at Fontainebleau. After the Restoration, he returned to the Polytechnic school, and applied for a commission on the return of the Emperor from Elba. He was on the eve of obtaining it, when the battle of Waterloo again subjected France to the rule of foreign bayonets, and of their allies, the Bourbons. He was then offered a situation in the *gardes du corps*, which he refused, feeling, to use his own expression, as if his country had gone from under him, and had left him afloat on the wreck of the empire.

His thoughts then reverted to the country of Franklin; a country about which he knew nothing; but which he loved because his father had loved it, and he resolved to make it his home. He was warmly attached to his mothers and sisters; but painful as the separation was, he felt that his destiny was there, and that it must be accomplished. He left in the beginning of 1816, being then nineteen years of age, and landed in New-Orleans in the spring of that year, a stranger to all, but full of health and youth and hope, and conscious of being at home the moment he trod on American soil. After being in New-Orleans a short time, he went to Natchez, where he made many acquaintances, who have been ever since his steadfast friends; one of the most agreeable was that of George Eustis, the present able Chief Justice of Louisiana, who was then preparing for the bar; one of the most useful was that of a gentleman of education and intelligence, who proposed to learn French with him, and to teach him English, which offer was thankfully accepted. After a few weeks, his teacher gave up the French in despair, but was so well pleased with the progress of his pupil in English, that he insisted upon continuing his lessons, and in the fall of that year he had the satisfaction to see him write and speak English with tolerable accuracy.

About this time Congress made to the French emigrants and exiles a donation of one hundred thousand acres of land, on the Black Warrior, for the purpose of cultivating the grape vine. Mr. Rost was registered for a section of this land, but not believing that the swords of

French officers could be turned into plowshares, or that such a colony had any chance of success, he never took possession of his share of the grant. After losing time, and becoming greatly involved by a commercial enterprise, and an unsuccessful attempt to improve an island on the Mississippi River, he turned his attention to the study of the law, under the guidance of Joseph E. Davis, a worthy brother of the distinguished soldier and statesman, Jefferson Davis. After a seclusion of six weeks, during which days and nights were devoted to study, he passed a remarkable examination, and was admitted to the bar. The late Judge Taylor, who examined him, complimented him on his legal acquirements, and cheered him by the promise of success and fame in his new profession. He soon after removed to Natchitoches, in the state of Louisiana, where he established himself permanently.

All the wealthy population of that part of Louisiana was, at that time, either French, or of French origin ; and the facility which he had of addressing juries in their own language, secured to him from the start a profitable practice, of which the liberality of the bar enabled him to avail himself under powers of attorney, until he was admitted to practice at the next term of the Supreme Court. The bar of Western Louisiana numbered, at that time, many first rate men. Josiah Johnston, Alexander Porter, Henry A. Bullard, Wm. Wilson, and Isaac Thomas, have a national reputation, and would have stood among the first in their profession anywhere. With the liberality peculiar to the legal profession, all those men welcomed the young Frenchman among them, and seemed as much pleased with his success, as with their own. Their good report soon spread his name throughout the state, his practice became quite large, and in a few years he had the happiness to pay the debts he had left behind him, with interest, and to lay the foundation of a competency which he has since attained. His former creditors not only became his clients, but took pains to recommend him, and put him in the way of much valuable business.

The courts of general jurisdiction sitting at that time but twice a year, he had much time left for self-improvement, and availed himself of it, to the utmost. The facility he had of reading French, Spanish, and Latin, gave him access to all the origins of the law of Louisiana, and he went through a systematic course of study, at times, by himself, and at other times with Judge Bullard, who, like him, was fond of scientific investigation. Domat was his text book ; Pothier, including the Pandects, Merlin and Toullier, his favorite commentators ; Gregorio Lopez, Salgado, the Curia Philippica and Febrero, were also read by him, and the changes which the laws of Spain then in force in Louisiana had made in the Roman law, carefully noted. He was thus qualifying himself to sustain with honor the position which favorable circumstances had made for him at the bar. So far, however, from obtruding his studies upon the public, he took pains to conceal them, and was ever ready to lead the dance or join his friends in the sports of the field.

The cases that came before the court at that early day frequently presented the dramatic incidents of a border country. A brief notice of a few of them may be interesting to our readers, not only as sketches of manners, but as disclosing the *modus operandi* of the subject of this notice, and the character of his mind.

Tom Tippet was a drummer in the regiment stationed at Cantonment Jessup, about fourteen years of age. Having been punished by the sergeant of his company, the next morning, when off duty, he stepped up to him, within the precincts of the fort, took deliberate aim, and shot him dead. He was surrendered for trial to the city authority. On leaving the fort, he told his commanding officer that he knew he must die, but that he would die like an American and a soldier, and bring no disgrace upon his company. This having been related by the officers to Judge Bullard and Mr. Rost, they volunteered in his defence.

Mr. Rost pleaded to the jurisdiction of the court on the ground that, by the constitution of the United States, Congress was to exercise exclusive legislation over all places on which forts, magazines, arsenals, and dock-yards were erected; and that this grant of power divested at once and forever the state court of jurisdiction. The arguments made use of by him were much the same as those upon which the celebrated passenger case has lately been decided by the Supreme Court of the United States. But the court held, that it was not the grant of power by the federal constitution to Congress which divested the state court of jurisdiction; and that the exercise of the power by Congress alone produced that effect. Under the principle of the decision in the passenger case, this defence should have prevailed. The offence not having been committed while the accused was on duty, it could not be brought under the martial law; and as Congress had not provided for such a case, there was no law under which he could be tried. By the decision of the court he was subjected to a trial which, through the great exertions of his counsel, resulted in a verdict of manslaughter.

Dr. Provost had been a distinguished surgeon in the French army. He was fond of strife, and had exaggerated notions of honor and personal dignity. He was arrested for a threat, on the affidavit of one of his neighbors, and brought for examination before Spotswoods Mills, who was a justice of the peace and a practicing lawyer. Mills was then a candidate for the legislature. He required Provost to give bonds to keep the peace, and the latter not being able to comply with the order on the spot, his hands were tied behind his back, a rope was placed around his neck and tied to a tree in the yard of the house in which Mills was at the time, and he was suffered to lie out all night. On the next day, this being midsummer, the constable walked him thirty miles to the jail of the parish, his hands still tied, and a rope around his neck. As soon as he reached the town of Natchitoches, he gave bonds and was set at liberty. His hands were much swollen, and he was in a state of mental excitement bordering upon insanity. He thought that Mills had suffered these outrages to be committed upon him to propitiate his enemies, whose votes he wanted, and sent him a challenge, to which he received no answer. Several days passed, during which the election took place, and Mills was elected. One evening after dark, Provost met him in the street, and said, he asked him whether he would fight him. Mills answered that he would not; and Provost stabbed him through the heart. He was put upon his trial for murder, and entrusted his defence to Mr. Rost.

The ground of defence taken in argument was, that the time which had elapsed between the outrage committed upon the accused, and the revenge taken for it, did not, under the facts of the case, raise a presumption of malice.

The common law was the custom of a country where money was held in public opinion a sufficient atonement for all outrages to person and character. After, therefore, the aggrieved party had had sufficient time to reflect upon the remedy which the law gave him, and which public opinion and his own sense of honor sanctioned, if he failed to avail himself of it, and resorted to personal violence, there was no adequate motive for his acts, and malice was justly presumed. But the accused belonged to a race among whom the atonement required in such cases was blood, and mortal combat the only form of trial recognized by public opinion. That until this was had, the outraged party felt as a disgraced being; and delay, so far from bringing counsel to him, must increase his exasperation, and ought to place him in no worse situation than if the act had been committed in the heat of passion. That in a common law country, the state of mind which would induce a party firmly to believe that the only remedy he had in such a case was to meet his adversary in mortal combat, could not be considered as being sound, and the accused was entitled to the benefit of this kind of insanity.

This characteristic distinction between the two races, was traced with great research through their judicial history. The defence, however, was unsuccessful, and the accused found guilty.

His disposition, and the strength of his national instincts and prejudices, were strikingly shown by the last request he made of the sheriff. The deputy of that officer had charge of the jail, and had treated him, as he thought, with unnecessary harshness during his confinement. The day before his execution, he sent for the sheriff, thanked him for his uniform kindness, and told him he had a request to make which he (the sheriff) must promise to grant. The sheriff said he would, if it was possible. "Nothing easier," said Provost. "You are an honest man, and must not disgrace yourself by hanging me. I insist on being executed by your rascally deputy, and that you shall not be present." The promise was given.

An Indian had been accidentally killed by another Indian while both were in a state of intoxication. The relations of the deceased were absent at the time; but they soon heard of his death, and came from the Indian territory to exact blood for blood from the homicide. He was advised to flee, but would not, and, in blind submission to the law of the red man, agreed to surrender himself on a certain day, to be shot. The court was then sitting, and Mr. Rost proposed to the presiding judge to prevent the horrid sacrifice, by giving the victim a fair trial by a jury, many members of which were known and respected by the relatives of the deceased, and impressing upon the latter the necessity of abiding by the verdict, whatever it might be. The judge consented at once, and had the Indian arrested, and confined in jail for safety. Mr. Rost visited him, informed him through an interpreter of what had been done, and asked the names of his witnesses. Those names were accordingly given. They were those of Indians of three

or four different tribes, now much reduced in numbers, and dwelling together. On the day of the trial, the prosecutors were all called into court. The killing was proved by a white man, and the witnesses for the defence were called. The District Attorney objected to their being sworn, on the ground that they were insensible to the obligations of an oath from defect of religious sentiment and belief. They were then examined as to their faith, and, to the delight of those who heard them, they all testified to their belief in a future state and in a Great Spirit, who would reward them if they told the truth, and punish them if they lied. They were then examined in chief, one of the party first translating the dialect of his tribe into Mobilian, which is the lingua franca of the Southern Indians, to an old Indian trader, who translated in French to the sworn interpreter of the court, by whom it was done into English. The testimony of all those witnesses thus given in different languages, was consistent throughout, and bore the impress of truth. It made out a clear case for the defendant. The case was then argued, and the judge gave a charge to the jury, which was translated to the prosecutors. The jury retired, and after being out some time, returned into court with a verdict of not guilty.

The judge caused the verdict to be translated to the prosecutors, and told them that the jury had done justice ; and if they now took the life of the accused, they would be punished as murderers. Mr. Rost then rose and stated to the court that the prosecutors had left their hunting-ground to come and avenge the death of their relative, as it was their duty to do ; that justice had been done to the accused, but that was not sufficient. Justice must also be done to the other side : they must be indemnified for the inconvenience they had been put to, and the loss they had sustained ; and as the coffers of the treasury would not unlock at the bidding of his honor, he moved that the bar, jury, and by-standers, contribute a sufficient amount to satisfy them. This was done as soon as proposed, and the prosecutors declared themselves satisfied. It was the first time that a court of justice in Louisiana took jurisdiction of an offence committed by an Indian against another Indian. Till then the Indians had been permitted to enforce their own barbarous laws. The precedent has since been followed, and it is to be hoped that it will hereafter be considered as the law of the land.

Mr. Rost was elected to the state legislature in 1822. In the early part of the ensuing session a bill came up to create a new parish, with the singular name of St. John the Evangelist. This name was understood to have been given in deference to the wishes of a worthy old gentleman, who had made a donation of land to the new parish for the erection of the public buildings, and whose name was Jean. After the sections had been adopted, Mr. Rost, who, till then, had been a silent member, rose to move an amendment to the title. He said that he yielded to none in respect for the memory of the great saint who had been selected as the patron of the parish. But he did not think any good would result from the honor intended for him on this occasion. Honors were rendered to departed great men, less for their own sake than for the beneficial influence those honors had upon the living ; and the men whose examples were most worthy of imitation, should be first honored. It was painful to say, that in the present state of the

world, evangelical sanctity found no imitators. The saints of liberty had, in this respect, superseded those of the church, and he was about to propose the name of one of those saints as a substitute. He moved that the title be amended by striking out the name of St. John the Evangelist, and inserting the name of Lafayette. The motion was received with applause. Major Davezac, who sat next to him, almost kissed him for the idea, and the change was made without a division.

This little incident gave him the ear of the house, and he soon after made himself conspicuous by his opposition to a bill punishing usury as a crime, and enabling debtors to recover back the usurious interest paid by them within the five previous years. Only two votes, including his own, were recorded against it on its final passage. But it was returned by Governor Robertson, with his objections; and on a reconsideration, the majority of two-thirds, required to pass it, could not be had. At the ensuing session he took an active part in the debates of the civil code, by which Louisiana is now governed. He and Judge Grima formed the enrolling committee, and were authorized to make all necessary corrections of form.

In 1826 he was nominated for the state senate in opposition to a gentleman who till then had defied all opposition, and considered it a duty to his friends to use all proper exertions to secure his election. The county of Natchitoches was as extensive as some of the states of this Union; and the northern and western portions of it were at that time occupied by a sparse American population. He made appointments to address the people at various places, and they came from great distances to hear him. Those men, mostly emigrants from Tennessee and Georgia, considered this a giant step in the civilization of Louisiana, and were delighted with their candidate. They all joined in his support, and he was elected.

These were the first stump speeches made in Louisiana, and Mr. Rost has often expressed doubts whether he conferred a benefit upon the state by introducing the practice.

He remained in the senate four years; at the end of which time he was put in nomination for Congress. He was then engaged to a daughter of the late Jean Noel Destrehan, whom he married before the election. This caused him to neglect the canvass, and he was defeated by a few votes. He then removed to New-Orleans, where he continued in the exercise of his profession till the summer of 1838, when he took his family to Europe, on a visit to his mother and sisters. He returned in the fall, and two vacancies having occurred on the bench of the Supreme Court, he and his old friend, George Eustis, were appointed to fill them. They both resigned after a few months. Judge Eustis resumed the practice of the law, and Judge Rost retired to one of his estates, formerly the homestead of the Destrehan family, and for some years devoted himself to agricultural pursuits. He went from the beginning upon the principle that the best planting is that which pays best, and was quite successful in the application of it—giving his people all necessary comforts and all indulgences compatible with a judicious discipline, liberal in expenditures, attended with ascertained profits, and making none on a large scale as long as the result remained doubtful, he was soon cited as an authority among planters; and in

1845 was called upon by the State Agricultural Society to deliver a discourse at their annual exhibition, which he did in a manner satisfactory to those who heard him. His speech was republished in the agricultural journals of the country, and translated into Spanish in the island of Cuba.

After a fair trial, he did not find that the pursuit of agriculture gave sufficient occupation to his mind; and on the reorganization of the state judiciary in 1846, he accepted again a seat in the new court, of which his old friend and colleague, Judge Eustis, was appointed Chief Justice, and he is now a member of that high tribunal.

It does not comport with the design of this work to review the decisions in which he has been the organ of the court. But it may be said that they are remarkable for vigor, logic and learning, as well as for always calling things by their right name, without the least regard to persons or position. The stern rebuke of his censure is said to have driven from the bar several men who disgraced it; and cases of fraud, which constituted their sole practice, have become comparatively scarce.

The Supreme Court of Louisiana deserves in this and other respects to be held up as an example. It has equity as well as law jurisdiction, and the cases that come before it are frequently to be decided under different systems of jurisprudence. The Mississippi may be said to be the dividing line between the two great jurisdictions of the civil and of the common law into which this continent is divided; and New-Orleans is the place where the two systems meet, and nearly all the conflicts between them occur. The cases in which they arise are known to be the most intricate and difficult in jurisprudence. Notwithstanding this, the court has decided thirty-five hundred cases in less than six years, and none are ever left on its docket at the end of each year that counsel are willing to try. The unequalled facility of recovering debts in Louisiana, has become proverbial amongst northern merchants.

It is not out of place to mention that the military education of Mr. Rost enabled him to acquire distinction of another kind. At Natchez a company of artillery was formed, of which he was first lieutenant, and under his drilling it became in time quite respectable. His fame as a martinet followed him to Red River, and he was made in succession lieutenant-colonel and colonel of the 19th regiment of Louisiana Militia. At the first general muster after his appointment, two hundred and seventy-three privates did not answer to their names. He had every one of them fined, and caused those who refused to pay the fine to be confined in the common jail for seventy-two hours, as he was authorized by law to do. The parties punished were very much exasperated, but they did not miss muster again; and at the next yearly review, the regiment proved to be by far the best drilled and disciplined of any in the state.

We will close this notice by stating, on reliable authority, that Mr. Rost attributes much of his success at the bar to his uniform popularity with courts and juries; and the latter, to a strict adherence on his part to the rules of conduct he had prescribed for himself at the beginning of his forensic career: these were never to misrepresent

the facts of his case—never to speak when he had nothing to say—never to repeat what he had once said.

He ever kept in mind, that although judges and juries are compelled to listen, persuasion is impossible when the compulsion is permitted to be felt. He took pains not to weary their patience. He addressed himself at once to the strong points of his case, and when his story was told, he was done. The mathematical education he had received, here bore its fruits. He would as soon have thought of repeating a demonstration in geometry, as a legal argument. In this respect, as well as in earnestness of manner and form of thought, he has been said to be not unlike John C. Calhoun.

HON. LOGAN HUNTON,

OF NEW-ORLEANS, LOUISIANA.

LOGAN HUNTON was born in the county of Albemarle, state of Virginia, of highly respectable parentage, and he is now a little more than forty years of age. His father, Thomas Hunton, emigrated to Kentucky about the year 1818, where, in a few years, he died, leaving a family of young children, of whom Logan was the eldest son, and transmitting to them little that was valuable, except a good name and reputation.

Mr. Hunton, the subject of this memoir, received what is termed by favor, a liberal education ; and being thrown upon his own resources at an early age, entered upon the study of the law in the village in which his family resided. His legal studies were prosecuted in the office of the Hon. John Kincaid, an able and learned lawyer, and since a representative in Congress from Kentucky. He was admitted to the bar before he attained his majority, and was at once associated with his preceptor in the practice of his profession.

About that period, the state of Kentucky was a great political battleground. An exciting, indeed bitter contest for the ascendancy between the friends of General Jackson and of Mr. Clay was then pending. The most virulent partisan feeling of an inflammable population was aroused. The contest for victory was not waged in the election of congressional candidates alone, perhaps it was still more keenly disputed in the state elections. Influenced by ambitious hopes, or impelled by patriotic ardor, the field was thronged with the talent and chivalry of the state ; and here it was that the young men of that day received the training which in after times has made them so conspicuous in forensic and parliamentary debate. The county of Lincoln was, at the time alluded to, claimed by both parties, and strenuous efforts were made by each to secure their candidate for the legislature. Although scarcely of the legal age, his party selected Mr. Hunton as the banner bearer of Mr. Clay for that county. The struggle was severe, the issue doubtful ; and to the zeal and ability with which Mr. Hunton conducted the canvass, is to be attributed the triumph of his party and

his own election. He was three times returned as a member of that body, and finally broke down all opposition.

His course in the legislature was such as to inspire his friends with increased confidence, and he might with great certainty have anticipated promotion to the national councils, but his slender pecuniary means compelled him to give his undivided attention to the practice of his profession.

On his retirement from the legislature, the office of commonwealth's attorney for the district in which he resided, was tendered to him by that veteran politician, Governor Metcalf. Mr. Hunton accepted the office, and from this time, for several years, he devoted himself exclusively and assiduously to the practice of the law.

Desiring a larger theatre, one on which more active and constant employment might be obtained, and where professional labors would meet with more sure and liberal rewards than generally attended them in the interior of Kentucky, Mr. Hunton removed, in 1838, to St. Louis, Mo., where he very soon obtained a high rank in his profession. The following year he was married to an accomplished lady, the daughter of Dr. Moss, of St. Louis. Whilst in St. Louis, Mr. Hunton devoted himself steadily to the duties of his profession. Having been appointed, however, as a delegate to the Harrisburg Convention, he attended the meeting of that body, and upon his return engaged actively in the presidential canvass, and advocated zealously the election of General Harrison.

In 1845, Mr. Hunton was induced to make New-Orleans his home. A system of law prevailing in Louisiana essentially different from that which obtains in the other states of the Union, it would seem to be a hazardous experiment for any one, however skilled in the learning of the common law, to enter the lists with those educated in the jurisprudence of the civil law ; and experience has proved, that upon this theatre have been wrecked many reputations well earned and firmly established in the common law states. Mr. Hunton, however, though a stranger upon the new field, not only obtained at once a lucrative practice, but he managed the causes entrusted to his care with such ability, as to inspire both the profession and the public with confidence in his judgment and learning. Upon the election of General Taylor, who knew him well, and who, it is said, had given him his entire confidence during the canvass preceding his election, Mr. Hunton was tendered the office which he now holds, of United States District Attorney for the Eastern district of Louisiana. It will be admitted that the appointment of law officer of the government, at a point as important as New-Orleans, is a distinguished compliment.

The first occasion in which Mr. Hunton appeared in his official character on behalf of the United States, was in the prosecution of the Spanish Consul at New-Orleans, for the alleged abduction of Rey, commonly called the "Rey case." The journals of the day speak of his effort on that occasion in very laudatory terms ; and doubtless, the ability manifested in that prosecution contributed to give him the high professional reputation which he now enjoys. During his term of office, the celebrated Cuban trials took place. Popular sympathy was strongly manifested in favor of the accused, and the prosecutions failed ; but it

is universally conceded, that Mr. Hunton discharged his duty on that occasion, faithfully to the government, and in a manner highly creditable to himself.

A stranger would at once say of Mr. Hunton, that he was a clear, strong-headed, common-sense man; cautious and wary in taking his premises, certain and irresistible in his conclusions from them. This is the secret of his success in life—*he never commits a folly*. It is to his practical sagacity, in a great measure, that he is indebted for his professional success; he at once perceives the ruling point of his case, and to that point, with all his force, he addresses himself. No art of his adversary can draw him into collateral or immaterial issues; he selects the best ground, and wages his battle *there*; and if he falls, it is always on the best position that his case affords. Although his acquaintance "with the books" is large, yet in the trial of his causes, he makes no unnecessary display of learning. He takes care to establish the principle which his case requires, and then, by argument, he proceeds to show that his case belongs to that principle. He troubles neither the court, the jury, nor himself, with the rubbish of his case. As a speaker, Mr. Hunton is earnest and fluent—his language, though never ornate, is always vigorous; and it may safely be said that he never uses two words where one will answer his purpose; he appears to think that the only triumph which any case can afford, is a judgment in favor of his client.

Mr. Hunton is distinguished for his firmness and decision of character; and whether in the affairs of life, or in the discharge of his professional duties, for great self-reliance. Yet it must not be inferred that, because these are distinguishing traits of his character, he is obstinate or dogmatic; on the contrary, no one is more ready to receive any counsel which may tend to enlighten his judgment. It is only when that judgment is formed, and when he is fully convinced of its correctness, that he is unswerving and uncompromising.

We cannot conclude this brief sketch without some observations on the private worth of Mr. Hunton. We know of no man whose character in this respect will bear a severer scrutiny. In all the transactions of life, his conduct is marked by the most scrupulous integrity, and he guards his honor with that sensitive care which has ever kept it far above suspicion. The hearty cordiality of his manner inspires full confidence in the integrity of his heart, and an acquaintance at once desires to become a friend. When that relation is established, he comprehends its duties in the largest extent; and although his experience has not been very favorable to his interests, he satisfies its demands with a ready, indeed unnecessary generosity.

HON. HENRY PIRTLE,

OF LOUISVILLE, KENTUCKY.

HENRY PIRTLE was born on the 5th of November, 1798, in Washington County, Kentucky.

His father was of German and Welsh descent. On his mother's side he was descended from a Swedish family, who had been at the court of Gustavus Adolphus, and coincided with that great prince in his grand scheme of spreading pure Christianity over the western world. They were his missionaries, and were included in the patent issued by Christiana, his daughter, or rather, by Chancellor Oxenstiern, in 1638, in fulfilment of the wish of Gustavus, for the country lying on the west side of the Delaware River, now principally in the state of Delaware.

His parents were among the early settlers in Kentucky. In a letter written by him in 1840, in answer to an invitation to be present at the celebration of the anniversary of the first settlement of the state, on the 24th of May, at Boonsborough, on the Kentucky River, he gives a striking picture of the daring energy, and spirit of adventure, which so strongly characterized the first immigrants to that country. Speaking of his father and mother, he says: "If my egotism obeyed my affection and reverence for their memory, I could say they were something of a specimen (I speak now of adventure only) of the first immigrants. They were Virginians. In those days, it was the habit for the persons who intended to come to this country, to rendezvous for fifty or one hundred miles around, at some place appointed, and travel in company with arms in their hands. My parents, who had been recently married very young, had come to one of these points of meeting, and found they had mistaken the day—that the company had gone two days before. But, as they had set out to come to Kentucky, and had received the blessing of their friends at the home they had wept for at parting, they resolved that they would not turn back—they *would come to Kentucky*—and accordingly, my father, with his rifle on his shoulder, on one horse, and a pack under him, and my mother on another horse, and a pack under her, traversed the solitary wilderness, and crossed the mountains alone; not on the "old wilderness road," but along the old wilderness *path*, till they reached the Crab Orchard. I fear their son, who writes this, would not readily take such a journey. Then every rustle in the leaves or crack of a stick in the deep woods, might well have been taken for the whereabouts of the prowling savage."

John Pirtle, the father of the subject of this sketch, was a man whose character was strongly marked by firmness, integrity, and decision, united with great mental vigor. He possessed a very remarkable talent for mathematical reasoning, and well understood the value of such training to the youthful mind, and very early imbued his son with his own love of learning; and from his instruction, aided only by such schools as the neighborhood afforded, he received a good English education. He seems to have inherited some of his father's uncommon talent for mathematical science: for while at school, when he was only sixteen years old, he invented a plan, not before known, of ascertaining

the rising and setting of the sun in any latitude where the days are only twenty-four hours long.

Until he was eighteen he lived entirely in the country, sometimes working on the farm, sometimes going to school, and at other times spending days together roaming the "pathless woods," either on surveying expeditions, or with his gun; and often merely for the pleasure it afforded him. There is much in this communion with nature to elevate and purify the mind of a thoughtful youth. Born in this beautiful country, while yet much of its primeval sublimity was left as nature made it—splendid, and almost awful, in its tall forests, tangled and dark woods, its wild rivers and romantic tributaries, he imbibed a love of nature which has been a poetic, as well as a patriotic sentiment of his life. "Patriotism," we have heard him say, "is the love of the great trees, the bright streams, the rivers, the forests, the green fields, our beautiful women, our countrymen, and our laws."

He was attracted by the moral science of the law, and determined to make it his profession; and when very young he commenced its study at Bardstown, under the instruction of the late Hon. John Rowan, one of the most eminent jurists of the west. His talents, assiduity, and uniform correctness of deportment, secured to him the friendship of his preceptor, which continued while he lived, and was reciprocated with the warmest gratitude and veneration by his pupil. In his preparatory studies, before he entered the profession, he went through a very full course. In that day there were no Kent's Commentaries, or Story's Commentaries, so valuable to the student; nor had he the help of other American and English publications, which have since contributed so much to facilitate legal study. But he had to find his way through the labyrinth of law and equity with labor not now befalling our young men. He did not rely on such elementary books as the day afforded; but, in connection with them, he read the reports in law and equity from the time of Edward the Sixth to the middle of the reign of George the Third.

While pursuing with ardor the study of his profession, he did not neglect the advantages of the large and well-selected library of his preceptor. Scientific works, history, philosophy and poetry, were his relaxation.

After reading for about three years, fourteen hours a day, he appeared at the bar, and had a full share of business the first term. He was young, almost beardless, but he understood his profession much better than most beginners. He had a remarkably manly, sonorous voice, agreeable and impressive elocution, and a power of analysis which commanded success. His office was in Hartford, Ohio county, but he attended all the courts of a large circuit. In the Green River Country, (as it is called,) the principal sources of litigation at that time, which were profitable to the bar, were conflicting land claims; and, as Mr. Pirtle was very familiar with the land law, he had, while this sort of business lasted, a full practice. But at the end of five years, most of these claims being adjusted, he determined to remove to Louisville.

A few months after his settlement in Louisville, the office of judge of the General Court and the fifth district becoming vacant, he was unanimously recommended by the bar to the executive to fill the va-

cancy, when he was only twenty-seven years of age, although this office was one of great importance: the General Court having jurisdiction throughout the state in suits between residents and non-residents, and in all the revenue cases, (being a court of exchequer,) and the Circuit Court having an unlimited jurisdiction over life and property, of law and equity. And what made the compliment greater, a senior member of the bar was appointed a committee to go to Frankfort, procure the commission, and bring it to him.

This office he held for upwards of five years; when he resigned it, and assumed the practice at the bar, having established himself in public estimation as one of the leading jurists of the state. This was honor; for Kentucky has always had able men at her bar and on her bench.

While holding the Circuit Court for the county of Meade, in the year 1827, on a conviction for murder, he ordered the judgment to be arrested for a defect in the indictment, and thereupon ordered the commitment of the prisoner to await a new indictment. This astonished the counsel; and the Hon. Ben. Hardin, a counselor of as much experience as any in the commonwealth, expressed his surprise, and stated to the judge that it was the first time in the state an accused person had not been discharged in such an instance, under that clause in the constitution which provided, that no one should be twice put in jeopardy for the same offence. But the judge maintained that the party was not "put in jeopardy" within the meaning of the constitution, on a bad indictment; and the law has been so held in the state ever since.

In 1830, a trial for felony took place before Judge Pirtle, in which the often mooted question concerning the opinion formed by one called as a juror, came up; and he decided, that if the person called had formed an opinion one way or the other as to the verdict that should be rendered, he could not sit on the trial, if others who had formed no opinion could be obtained. It seems from the report of the case in seventh Monroe's Reports, that this opinion was not founded on the common law only, but was based in part on the provisions of the constitution of Kentucky, which are substantially included in the constitutions of the different states of the Union, and in the constitution of the United States.

We have not space to insert the whole of this opinion; but we give the following extracts, which show the result to which the learned judge came:

"But, if the doctrine of impartiality were not sustained by the decisions of the courts at Westminster, it still has been abundantly protected by the American statesmen and jurists. In this country, more than any other, has the trial by jury been cherished and improved. The constitution of almost every state has secured its impartiality by special clause. The constitution of the United States has the same provision. And the courts of America, in expounding these provisions, have held forth the lights of modern improvement, and shown that American justice requires a juryman whose opinion is not formed by any means that govern the human mind, before he hears the evidence in the case which he is called to try.

“ We are not under the necessity to recur to the British common law for the exposition of an American charter.”

* * * * *

“ The court does not mean to say, that every hypothetical opinion which a juror may have will disqualify him, (for this might exclude all mankind that come within the reach of the court,) as that, if what his neighbors have said be true, or if what was rumored be true, then he has formed an opinion. But, if his opinion is absolutely formed, and his mind made up, it makes no difference on what grounds, he is an incompetent jurymen. But, it may be said, that the more atrocious and notorious an offence is, the more difficulty there will be to obtain a jury ; and in some instances of outbreking enormity, it may be impossible. Not so. That there will be more difficulty is acknowledged ; but the injunction to preserve impartiality will not compel the court to deny justice to the commonwealth. The constitution directs the trial to be had by a *jury of the vicinage*. It is the duty of the court to afford it *there* ; and if a jury, clear of all previous impression, cannot be obtained, it will be still the duty of the court to provide the most impartial triers which the constitution and laws have given the means to do.”

After he left the bench, Judge Pirtle engaged with his usual energy in the practice of the law, in the courts of Louisville, and the Court of Appeals and Federal Court, at Frankfort ; and with that success which generally attends high moral character, learning, ability, and industry.

His eloquence is not splendid ; yet there has always been a clearness in his argument and a natural fervor, united with such illustration as reached the feelings and judgment of plain sensible men ; so that, when enforced by his uncommon voice and manner, which we cannot express on paper, we may say he is truly an eloquent speaker. Mr. Clay, when opposite counsel in a great case, said to the jury : “ The solemn force of the gentleman’s manner is irresistible.” But a few years ago he obtained a judgment of six thousand dollars on a breach of marriage promise, by the skilful presentation of the case, and the holding it up throughout the trial of seven days, in his fine address and manner alluded to by Mr. Clay, and by his argument and natural appeal to the jury.

X In 1846, the commission of judge, which he had resigned in 1832, with the same salary as that of Chief Justice of the State, was, at the same unanimous instance of the bar, sent to him. He held it for a few days to save the term of the court, and resigned it.

He is now chancellor ; and he is the professor of constitutional law, equity, and commercial law, in the University of Louisville.

The life of a professional man, who has kept himself in his profession, is comparatively void of incidents to excite the mind of the general reader. Chancellor Pirtle has eschewed political office. His attachment to the law, and his domestic attachments and habits, have, with one exception, held him away from such station. Yet it is agreeable to men of reflection, to contemplate the course of one of their fellows who has, for more than a quarter of a century, kept an even tenor of duty always in mind ; and who has esteemed the fame of the party politician less than the duties of the husband, the father, the JURIST, and the judge.

In 1840, he was induced by the voice of the district to take a seat in the senate of the state. This he did, with the express declaration that he could not continue in political office. He remained the appointed time in the senate, and returned to his constituents, meeting their approbation and satisfaction.

In the year 1842, when he was chairman of the Committee on Federal Relations, he made a report on certain resolutions of South Carolina and Virginia, in reference to the conduct of New-York in regard to fugitive slaves from Virginia, in which he stated substantially the same doctrine, and the same construction of the Constitution of the United States, that is to be found in the opinion of the Supreme Court in the case of *Prigg vs. the State of Pennsylvania*, in 16th Peters' Reports, some days before the opinion was promulged.

The following extracts will show the conclusion to which the argument came :

"These states claim the right to enforce New-York to an observance of the Constitution. South Carolina says: 'Interest, duty and honor, imperiously demand, that South Carolina announce to the authorities of New-York, that so soon as that state shall break its solemn faith to Virginia, so soon shall be canceled our constitutional obligations as to her. When a state shall have been disappointed of those rights and remedies, for which stipulation was made when the compact of union was adopted, then will the painful but imperative duty of protecting her rights in her own way have been imposed upon her. This state, having a common purpose and common interest with Virginia to uphold the Federal Constitution, by exacting compliance with its obligations, is prepared to make common cause with that commonwealth in the maintenance of her rights.' And again, 'the basis of the whole doctrine of state rights is the assumption that the Constitution of the United States is a compact between the states.'

"Your committee deny that this is any just basis of state rights. The doctrine of the American people is not that the Constitution is a mere compact between the states, a breach of which on the part of one is to be remedied by coercive retaliation on the part of others; but that it is a form of government of the people of this nation, as sovereign in its sphere as the government of a state is within its sphere; that no state can interfere with its power or assume its action; that national subjects are under this government referred to national judicature.

"Your committee believe that the duty of the respective states to comply with the provisions of the Constitution in regard to fugitives, is one to be enforced by the National Government, or it is left without a remedy; for coercion on the part of another state implies disunion. Retaliatory exactions of compliance with the obligations of the Constitution are dangerous usurpations, to be deprecated by all the American people.

"This act of Virginia and South Carolina is an interference with the power of Congress under the Constitution, 'to regulate commerce with foreign nations and among the several states.' This power is not one that may be concurrently exercised by the states, as the preamble of South Carolina supposes; but it is one to be exercised exclusively by Congress. This American doctrine is so well established, that it would

be vain to attempt to give it any support by argument at this day— See Federalist, No. 42; Kent's Commentaries, Lect. 19; 2 Story's Com. 512; 9 Wheaton's Reports, *Gibbons vs. Ogden*. Congress has passed laws regulating commerce among the states. They have said what papers a vessel shall have to pass from New-York to Charleston, and what papers she shall have at Charleston to be able to sail to New-York, and neither of the states can require any other.

"The committee would not contend that South Carolina had not the right to inspect a vessel to see whether slaves were concealed on her or not; this would be but the exercise of a power of police which is not denied to the states. But if the exercise of police has annexed to it restrictions aimed at navigation and commerce, then its character is changed, and it is inhibited by the Constitution. In this instance the power attempted to be exercised is for retaliation and compulsion, and burdens on navigation are imposed that come from no motive of police.

"Your committee have witnessed with much concern the difference between these states on these subjects. The quiet union of the American states should strike every lover of mankind as a desideratum unsurpassed by any subject of sublunary concern; and so it is felt by the people of Kentucky."

Judge Pirtle unites to his legal attainments, general information, which belongs only to the most industrious and cultivated in his profession. His habits of investigation have led to a very thorough acquaintance with natural science; and that refined element in his character, to which we have before alluded, causes him to take great delight in all that is beautiful in literature and art. He has a lively interest in most of the scientific and philanthropic movements of the day. Indeed, those eloquent lines of Terence might be his own: "*Homo sum; et nihil humani a me alienum puto.*"

H O R A T I O J . H A R R I S ,

OF VICKSBURG, MISSISSIPPI.

HORATIO J. HARRIS, a member of the Mississippi bar, and the present U. S. Attorney for the southern district of that state, was born in Newark, Licking county, Ohio, on the 4th day of February, 1815. His father, Dr. Noah Harris, a Virginian by birth, settled at Newark about the year 1807, when the county of Licking, now one of the most populous and wealthy in the state, contained but a few hundred inhabitants. He practiced medicine there with great success for many years, and was universally respected as an upright man and valuable citizen. On his mother's side he is a grandson of Capt. Samuel Elliott, a native of Ireland, who emigrated to Maryland on the eve of the Revolutionary War, in which he rendered efficient service as an officer under General Wayne. Capt. Elliott removed to Ohio about the commencement of the present century. His name is honorably mentioned in the history of the state, as one of the pioneers of Licking county. When he settled in the

vicinity of Newark, its whole population did not exceed a half dozen families.

At the usual age, the subject of this sketch was sent to the village school, which he attended regularly until he reached his sixteenth year. His mind developed rapidly, and gave early evidences that it was possessed of more than ordinary powers. His capacity and desire to learn made him always a favorite with his teachers; and it was but seldom he was given to understand, by practical illustration in his own person, that the system of education, in those times, had for its corner-stone the precept of Solomon, rather than the milder doctrine now happily so popular, of the Roman poet :

Ferulaeque tristes, sceptræ pædagogorum,
Cessant et dormiant.

In November, 1830, he was sent to the Ohio University, at Athens, in which institution he remained upwards of three years. During that period, he applied himself closely to his studies, and was noted for the extent of his mathematical and classical attainments. The taste he then acquired for those branches of learning he has never lost.

While connected with the university, in 1832, he took a prominent part in a meeting of the democratic students; and acted as chairman of the committee which reported resolutions laudatory of Gen. Jackson's veto of the bank bill, and approving the policy of the administration generally. The resolutions, mostly from his pen, were published in the *Washington Globe*, from which they were copied into the Ohio papers with highly commendatory notices of their perspicuity, spirit and sound democracy. His party associations, thus early formed, have not since been changed.

At the commencement of the summer session, in 1834, he entered the Miami University, at Oxford, Ohio, where he finished his college studies, in September, 1835. The class to which he belonged was the largest which had graduated at that popular institution, and embraced several names which have since become widely known. Among his classmates were the Hon. W. B. Caldwell, the present Chief Justice of the state of Ohio, Gen. Samuel F. Cary, whose successful labors in the temperance cause have given him a national reputation, and others who have highly distinguished themselves at the bar, in the pulpit, and the halls of legislation. By the unanimous vote of the faculty, the first honor of his class was awarded to him; and to mark emphatically his clear title to the distinction, the words "*Primus, Primorum*" were indorsed on his diploma. Under a provision of the constitution of the Literary Society, with which he was connected, a gold medal, with suitable inscription, was bestowed upon him, in testimony of the position he held in his class,—an honor to which but one other member of the society ever attained.

Upon quitting college, he entered upon the study of his profession, at Indianapolis, Indiana, which he prosecuted until the next summer, when he accepted the offer of a responsible place in the engineer corps, on the Wabash and Erie Canal. Resigning the position at the end of a year, he resumed his law-studies, in the office of the Hon. Albert S. White, of Lafayette, and was admitted to the bar in 1838. In the

summer of that year he located at Delphi, Indiana, the seat of justice of Carroll county, to whose citizens he had become generally and favorably known, by public addresses delivered by him on several occasions. His speech, in 1837, in opposition to the principles, and denunciatory of the purposes of the abolition party, which was then organizing for its career of agitation, was much commended. At that early day, he depicted the necessary consequences of the movement, and anticipated much of what has since unfortunately become history.

The period at which he commenced the practice of the law was one of great pecuniary embarrassment and distress. His professional emoluments were, therefore, limited, though he soon acquired and retained a full share of such business as came before the courts. Escaping thus the misfortune of being engrossed from the start in the practice of his profession, he was enabled to study his principles more thoroughly; and he devoted himself to his books with untiring zeal and perseverance. His reading was confined principally to the old writers upon the law, and the earlier English reports. During this time, also, he added largely to his knowledge of the mathematics, and studied critically a large portion of the Greek and Latin classics.

In December, 1839, he was elected principal clerk of the Indiana house of representatives; the duties of which office he discharged, in the midst of unusual political excitement, with marked commendation from all quarters.

The year following, he was put in nomination by his party, as a candidate for senator, from the counties of Carroll and Clinton. The violent and embittered partisan spirit which marked the memorable contest of 1840, seemed to render the hope idle, that personal popularity, however great or well-deserved, could be brought to bear with any success in the canvass. It spoke highly for his standing with his fellow-citizens, that while his party was signally overthrown in nearly every quarter, his own majority in the district was much larger than had ever before, or has since, been given to any candidate for the same place.

When he entered the senate, he was much the youngest member of the body. So marked, indeed, was his boyish appearance, that the intention was expressed by some of the senators, to call in question his constitutional right to hold the office. At the first session he was placed on the judiciary committee, and the committee on canals and internal improvements; and was assigned the same positions the following years. Of the latter committee, he was appointed chairman, in 1842. During his term of service in the senate he took an active part in its proceedings, and originated and secured the passage of several laws of great importance to his part of the state. He was the zealous friend and advocate of all feasible plans for the extension of that vast work, the Wabash and Erie Canal. Though the interest of his district would probably have been temporarily promoted by arresting the progress of the canal, at the point it had reached in 1840, he threw aside all local and personal considerations, and gave to such measures as looked to the prosecution of the work, a constant and cordial support.

Upon all questions of a party character, he adhered strictly to his political principles. His votes were recorded against the resolutions

of the majority, calling for a national bank, distribution of the proceeds of the public lands, the protective tariff policy, and a repeal of the independent treasury law.

Shortly after the expiration of his senatorial term, he was elected auditor of public accounts, of which office he took charge in January, 1844. When he entered upon its duties, the financial condition of the state was at the lowest point of depression. The foreign debt, on which no interest had been paid for three years, amounted to nearly twelve millions of dollars; the entire revenues of the state were collected in treasury notes, which had been issued in 1840, to meet the claims of domestic creditors, and when once received for taxes, were required by law to be destroyed. The treasury, in consequence, was bankrupt. A loan from the bank, negotiated on harsh terms, supplied the means to defray the necessary expenses of the government.

In his annual reports, as Auditor of State, he took bold ground in favor of making some speedy provision for the public debt. His views on that important subject were elaborately set forth in his report to the legislature, at the session of 1845. In that document, he repelled the charge, as a calumny upon the state, that she designed to repudiate her just obligations. The aggregate amount of her liabilities, on all accounts, he showed was upwards of sixteen millions of dollars, equal to one-seventh of the whole value of her taxable property. The prospect, he admitted, was gloomy enough; but dark as it was, the path of honor was clearly discernible. Between duty and disgrace, he said, the state could not hesitate to choose. A proper regard for the highest interests of the people, he contended, imperatively required that prompt steps should be taken to place the public credit upon some safe and honorable basis. What those steps were, he proceeded to designate. The policy suggested in the report—such an arrangement with the public creditors as would bring the debt within the means of the state—was adopted by the legislature; and having been cheerfully approved by the bondholders, the payment of interest was soon afterwards resumed, and has not since been discontinued.

The measure, however, did not pass without strong opposition; and it was confidently predicted, that the state would prove unable to comply with her part of the contract. In his next annual report, he took occasion to show, that her resources would not only be sufficient to pay the interest regularly, but that a fund applicable to the reduction of the principal would commence accumulating as early as 1852. His estimate, that the taxable property of the state, at the commencement of that year, would reach a hundred and seventy-five millions of dollars, was regarded by most persons as exaggerated and fanciful. Time has shown that he was far from being over-sanguine. From the recent message of Governor Wright, it appears, that the property of the state, subject to taxation in 1852, is valued at more than two hundred millions; and there is, also, in the Treasury, for the first time in many years, a surplus appropriable to the payment of the principal of the debt. The progress which Indiana has made since 1846, in all that constitutes the true glory of a state, has been too rapid not to have attracted general attention.

About the time he was elected auditor, the legislature, in a frenzy

of economy, abolished the law authorizing the employment of clerks in the office. During the three years he held it, he performed its varied and responsible duties without assistance. In that time, he audited claims against the state to the amount of more than three millions of dollars. His vouchers for that sum were approved, without exception, by the examining committee of the legislature; and as no errors have since been detected in his accounts, it is to be presumed that none exist. As the superintending officer of the revenue, he was frequently called upon to decide questions of great interest connected with its collection and disbursement. In the few instances of appeal from the correctness of his judgment, he was fully sustained by the Supreme Court of the state.

In the winter of 1843, the democratic convention placed him on the State Central Committee. At that period, a large majority of the democratic politicians in Indiana were warmly in favor of the nomination of Mr. Van Buren. Dissenting from them on this point, he had early committed himself to the support of General Cass, and, up to the meeting of the Baltimore Convention, took an active part in bringing him prominently before the country. He was the author and advocate of the first resolution which ever passed a public meeting in Indiana, expressing a preference for that distinguished statesman, as the democratic candidate for the Presidency. It was at his suggestion, and principally through his exertion, that letters were addressed, in the spring of 1844, to the delegation in Congress, expressing the opinion that Mr. Van Buren was not the choice of the masses of the party; a movement which is said to have prompted the card of the delegation, shortly afterwards published in the *Globe*, in which they assumed an attitude of hostility to Mr. Van Buren's nomination, and thereby gave a powerful impulse to the opposition, which soon acquired strength enough to control the national convention.

At the annual election, in 1846, the democratic party carried their candidate for Governor, but, owing to local causes, lost the legislature. In the election for auditor, Mr. Harris was defeated, on the second ballot, by a bare majority, having received the support of several members opposed to him politically.

In January, 1847, he retired from office; and after spending a portion of the spring and summer in the city of New-York, as an assistant of the State Agent, in closing the arrangement with the bondholders, he removed to Mississippi, with the determination to abandon public life, and devote himself exclusively to his profession. He located at Jackson, at which place he remained until the summer of 1849, when he removed to the city of Vicksburg, where he now resides. His practice is steadily increasing, and his just title to the character of a sound lawyer becoming generally admitted.

In the summer of 1850, his nomination was sent to the senate, and by that body unanimously confirmed, as United States Attorney for the Southern District of Mississippi. As it was well known that his party connections had undergone no change, the appointment excited some surprise. To himself, it was wholly unexpected.

He had scarcely entered upon the office, when he was called upon to take part in a proceeding, which attracted much attention throughout

the whole country. A copy of the indictment in the Circuit Court of the United States, at New-Orleans, against Gen. Quitman, then Governor of Mississippi, for an alleged participation in the Cardenas expedition, was forwarded to him, with directions that steps should be taken, under the act of 1789, for Gen. Quitman's arrest and removal. In the correspondence which ensued on the subject, between Gov. Quitman and himself, the position was virtually assumed by that gentleman, that being the representative of the sovereignty of the state, he could not, while holding his office, be arrested under a law of the United States, nor could he be removed, against his will, beyond the jurisdiction of Mississippi. And at the hearing before the District Judge, this doctrine was strongly insisted upon, by eminent counsel, on the part of the defence. The argument of Mr. Harris, in reply, gave evidence that he had studied the case in all its bearings, and had clear views of the true relations existing between the state and federal governments. The doctrines he contended for, were sustained by the court; and the arrest and removal accordingly ordered to be made. As the proceeding was altogether novel in its character, and there was reason to apprehend that the interposition of some state court would be called for, the framing of a proper warrant became a matter of no little difficulty. The form drawn up by him was approved, and under it the arrest took place. The legality of the process was not called in question.

In April, 1846, he was married, at the residence of Joseph E. Davis, of Warren county, Mississippi, to Miss Martha L. Quarles, a daughter of the late John H. Quarles, of Clarksville, Tennessee, and a prominent member of the bar in that place.

His father died in 1832. After that period, the charge of his education was assumed by an old friend of the family, Mr. Nicholas M'Carty, of Indianapolis, Indiana: a name suggestive, to such as know him, of a thousand virtues.

His mother and three sisters still reside in his native town. A younger and only brother, Reuben Harris, is an officer in the Navy, in which service he is rapidly rising to distinction.

HON. Z. WHEAT,

JUDGE OF THE FIFTH JUDICIAL DISTRICT, KENTUCKY.

THERE is much utility in biographical sketches of those men of our day and generation, who, by their own inbred merit, and native integrity, have attained to honorable positions amongst their contemporaries. The youth, by such examples, are taught to emulate the virtues, strive for the excellence, and press forward with active hope, to those honors which reward the efforts of the meritorious, and crown the aspirations of virtuous ambition.

Though there is nothing in the history of Judge Wheat which is not common to most of those who, in our free country, have won position by merit, and conquered a place in the history of their time; yet, that very sameness constitutes the chief merit of his history; because,

by it a new inspiration is given to hope, and another incentive to honorable effort is communicated. To use a common phrase, Judge Wheat is a "self-made man." He was born in the county of Bourbon, Kentucky, on the 26th day of July, 1805, and is the sixth of twelve sons. His father was a farmer, and a man of high reputation for personal worth; but in humble circumstances.

Judge Wheat obtained a substantial English education, but does not enjoy the benefits of a classical training. He has, however, by his own industry and application, acquired a large fund of varied learning, besides the legal lore with which he has stored his memory. He served an apprenticeship to the trade of a saddler; and, by industry and economy, had laid by a small, but sufficient sum to enable him, at the age of twenty-two years, to commence the study of law, and prepare himself for the profession in which he has since distinguished himself.

He prosecuted his studies in the office of Cyrus Walker, of Columbia, Adair county, Kentucky, a gentleman eminent, at that time, for his high intellectual endowments and legal attainments; and who ranked high with the bar of Kentucky. Judge Wheat prosecuted his studies with an energy of application which gave ample presage of his subsequent success. Having devoted himself to his books for two years, under the supervision of his distinguished preceptor, he applied for, and obtained a license to practice as attorney and counselor in the year 1829, the twenty-fourth year of his age.

He located himself at Columbia, where he has since continued to reside; and entered immediately upon his professional career. Success greeted him at the threshold. By his industry, application to his profession, his upright deportment, and honest dealing with those who sought his professional aid or advice, he secured, at the commencement, a good practice, which he ever after maintained and increased. The bar, at the time Judge Wheat entered upon the practice, was illuminated with the wit, the learning, and genius of such men as Richard A. Buckner, Samuel Brents, Cyrus Walker, William Owens, &c.; men whose great mental force would have impressed any age or country with the stamp of their genius. So far, however, from being deterred by such competition, Judge Wheat learned from their success to aspire; and his ambition stimulated him to press onward and upward in the pathway of honorable distinction. In the year 1832 he was appointed to the office of commonwealth's attorney, by Thomas Metcalfe, the governor of Kentucky.

This opened up to him a larger field for the development of his native powers. Being, by his official position, thrown upon his own unaided resources, and brought in continual contact with the entire strength of the bar, at that time brilliant with intellectual stars, his own mental resources were called into full requisition and rapid development. He soon won a stand amongst the elder fraternity of the bar; and his professional success and reputation was no longer a problem, but a demonstration.

He was continued in the office (except two years, during which time S. Buckner held the appointment) until May, 1849. The Hon. C. Tompkins, Judge of the 8th Judicial District, having tendered his re-

signation, it became necessary to supply his place,—a task difficult to perform. Not because there was any want of able men to fill the vacant bench, but because few men, if any, could supply the place of Judge Tompkins,—a man of profound mind, varied and thorough learning, and wrought in the finest mould of intellectual and moral excellence. To fill the vacant bench, and close the mental, moral and social hiatus created by the withdrawal of Judge Tompkins, the bar unanimously recommended Judge Wheat to the governor for the appointment. Governor J. J. Crittenden, most heartily concurring with the bar, immediately tendered a commission to Judge Wheat, which he accepted the latter part of May, 1849, and entered upon the discharge of his duties. Judge Wheat executed the duties of his station with such impartial justice and ability as to command the approval of the bar, the sanction of the country, and the praise of all. The people of Kentucky called a convention to remodel their organic law, and in 1850 had the result of their convention labor submitted to them for ratification or rejection. The proposed constitution, in many important particulars, differed materially from the old, and met with an honest and decided opposition. The feature proposing an elective judiciary was regarded by the opponents as fraught with most danger, and against this feature the force of their logic and rhetoric was directed. In Judge Wheat's district it was the common answer with the masses to deny the conclusion of the opposers by asserting the proposition that Judge Wheat would be re-elected. This argument of fact, granted by everybody, made it somewhat ponderous.

The new constitution prevailed, and the argument of the masses became a verity. Judge Wheat was chosen by the people at the May election, 1851, without opposition, to fill the first term of Judge of the 5th Judicial District, composed of the counties of Adair, Casey, Clinton, Cumberland, Greene, Lincoln, Pulaski, Russell, Taylor, and Wayne. The districts being reduced from 19 to 12, were greatly enlarged; and Judge Wheat's old district (except one county) was united with other counties to compose the new, over which he at present presides. The promptness and dispatch, together with the ability with which Judge Wheat has discharged the greatly increased labors of his office, has fully justified the wisdom of his selection by the people. The unanimity of his election affords a strong conclusion in favor of an elective judiciary; and although the writer of this memoir was himself opposed to the new constitution, yet truth constrains the admission, that so far the elective system is well vindicated by the excellent selections made by the people. May they ever continue to choose as wisely!

The elements of Judge Wheat's success are—*industry, strict attention and perseverance in business, and high integrity*, combined with a strong and vigorous intellect. He started with the determination to honor his profession. When consulted for advice, his uniform course was to ascertain all the facts, examine the case presented in all its bearings, and give an honest opinion to his client, after fully digesting the law and facts. By this course, he was successful in his suits, and won for himself golden opinions of men. He was frequently told by those who came to consult him, that their neighbors had recommended him to them as an *honest lawyer*, and therefore they sought his counsel.

Such avowals will be appreciated as a high compliment, when we consider the deep-seated though unjust prejudices which are held in stubborn tenacity by the public mind in relation to the legal fraternity. To be an *honest lawyer* is, to the vulgar, to be a sort of WONDER, a real PRODIGY, affording food for conjecture and amazement to the understanding of the many ! Alas ! how we are misunderstood and wrongly judged by those who make asses of themselves to convict us of villany ! It is to be hoped that a more general diffusion of knowledge will enable the masses more correctly to appreciate the legal profession,—a profession which has ever embodied the enlightened integrity of all civilized countries. Until that time arrives, each member of the bar should, by his own deportment, enforce for himself from the reluctant confidence of the prejudiced many, the same tribute yielded to Judge Wheat—"He is an honest lawyer!"

While commonwealth's attorney, Judge Wheat discharged the duties of that office with fidelity to the government and honor to himself. He ever discountenanced trivial and malicious prosecutions ; yet he always with a steady eye pursued, and with unswerving energy directed the bolts of justice, with certain aim and condign force against the guilty.

In person, Judge Wheat is above the common size, and is now slightly inclined to corpulency. His features are strongly marked and well defined ; but he is not to say handsome, though a fine-looking man. His manners are easy and dignified.

He is now in the rich prime of intellectual manhood, having a fine physical constitution, which gives the hopeful promise of years of future usefulness. His brain is large, giving him a strong and vigorous mind. His intellect is not of that vivid kind which marks its way in lightning flashes and meteoric splendor, but of the solid, laborious working class, which drives on, with determined force, to conclusion. As a speaker, Judge Wheat is argumentative and forcible, with animation sufficient, and a considerable fund of humor. His sallies are often extremely rich and racy. His voice is defective in melody, but of sufficient compass.

His gestures and manner are peculiar to himself, being formed upon no particular model ; at times are graceful and easy, at others, stiff, and occasionally uncouth ; but all are expressive.

In his intercourse at the bar, Judge Wheat was ever courteous to his professional brethren, and respectful to the bench. He is eminently kind and social in his sentiments and feelings ; and many young lawyers have yielded him the treasure of their hearts' rich gratitude for the exercise of that instinctive kindness which always brought him to their aid in their first struggles at the bar.

He was ever ready to stretch forth the strong arm of his experience, and buoy up the young lawyer who was sinking under the combined weight of embarrassment and stronger opposing force. By such habitual acts of disinterested kindness—that noble sympathy, which has but to see, to relieve—he has attained a hold upon the affections of many of those who compose his bar, which cannot be shaken by circumstances, or destroyed by time. As a judge, he is patient, impartial, and able ; courteous, forbearing, and kind to the bar ; considerate in his deportment to all. In politics, he has ever been a firm and decided whig.

But the crowning excellence of all his praises and honors is, that he is a pious and devoted christian, living much in the enjoyment of religion : he is a member of the Baptist church.

Judge Wheat has been twice married, and as often deprived of the sweet solace and companionship of his wife by death. He was first married, in 1830, to Miss Monroe, daughter of Hon. Benjamin Monroe. With her he lived in the enjoyment of that wealth of earthly happiness, which is found alone in the family circle around the fireside of domestic love. She was taken from him, and departed into higher being, in the springtide of womanhood, while yet all the freshness of the heart's rich love gave forth the sweets of its primal bloom. She left him in charge of two infant daughters, pledges and memorials of their love. She died in 1836.

In the year 1845, being still in the prime and vigor of life, Judge Wheat sought, and obtained in marriage, the heart and hand of Miss Frazier, a lady of cultivated mind and well-trained moral affections ; possessing those amiable qualities of gentleness, which make home a paradise to the husband's heart. Two children, a daughter and son, blessed this union ; but in the summer of 1849, "the pestilence that walketh in darkness," and "the destruction that wasteth at noonday," settled upon Columbia, and devoted many cheerful hearts and happy homes to the desolation of death, and the wasting melancholy of sad and mournful memories. Amongst the number, the wife and infant son of Judge Wheat joined the convoy of blessed spirits, who departed to "enter upon that rest which remaineth to the people of God." He was left a second time to mourn ; "but not as those who have no hope ;" for a Christian's faith and hope gemmed the pure life of his departed companions. Such afflictions, however, have impressed some lines of sadness upon his countenance, which may be traced by the sympathetic eye of those whose hearts have been schooled in kindred griefs. As a husband and father, Judge Wheat has but few equals, and no superiors : he lavishes the whole treasure of his heart's pure affections upon his family ; and in no instance has he ever departed from the gentleness of the husband or kindness of the father. He is now a widower, and will most likely so remain. He devotes himself for those who yet cheer his life with the pure, sweet rays of filial affection ; and when he shall have "finished his course," he can lay down to rest, cheered by the hope of a Christian faith, and surrounded with the halo of a well and usefully-spent life ; and it is to be hoped, that his days may yet be as many as they are useful.

HON. WILLIAM H. BATTLE,

OF CHAPEL HILL, NORTH CAROLINA.

WILLIAM HORN BATTLE, at present one of the Judges of the Superior Courts in North Carolina, was born in the county of Edgecombe in that state, on the 17th day of October, 1802. He was the eldest son of Joel Battle, a wealthy and enterprising citizen, and a great-grandson of Elisha Battle, who moved from Virginia to the banks of Tar River, about a century ago, and afterwards became one of the pioneers of liberty in North Carolina. After pursuing a preparatory course at a variety of academies, the subject of this sketch was transferred to the university of the state, at Chapel Hill, in January, 1818, and became a member of the Sophomore class. Here he was distinguished as a diligent and successful student, and upon graduating, in June, 1820, although at an unusually early age, received the valedictory oration, then the prize of the second scholar in the class. Among his classmates were Bishop Otey, of Tennessee, and B. F. Moore, Esq., the late able attorney-general of North Carolina. In September of the same year, Mr. Battle entered the office of the late Chief Justice Henderson, and remained as a student with him until January, 1824, when he obtained license to practice law. It is usual in North Carolina for candidates for the bar to undergo two examinations before the Supreme Court, separated by an interval of a year. The first license extends to the county courts, whilst the second includes all other tribunals. Mr. Battle, during his stay with Judge Henderson, having on different occasions attended his preceptor as amanuensis, upon his judicial duties in Raleigh, his proficiency in his studies was so well understood, that not only did the court decline causing him to undergo a regular examination, but insisted upon giving him both licenses at the same time. On the first of June, 1825, Mr. Battle married Lucy M., daughter of Kemp Plummer, Esq., a distinguished lawyer of Warrenton, North Carolina; and in January, 1827, settled for the practice of his profession in the county of Franklin.

The early career of our young lawyer gave little promise of future success and eminence. Although introduced to the bar with the advantage of his reputation, both at Chapel Hill and before the Supreme Court, and though of exemplary morals and business habits, he went the circuit for several years with but little practice. And now, that he has reaped the honors of his profession, he is fond of encouraging his younger brethren by referring to the time when years of unsuccessful competition had so dispirited him, that even the influence of his wife could scarcely induce him any longer to face the cheerless prospect apparently before him. Instances of early disappointment followed by marked success in later life, are sufficiently frequent in the profession of law to deserve attention, and afford the proper comment upon the "*prepropera praxis*" of its old master. The name of Judge Battle may be added to the already illustrious list of men who employed the slow years of constrained leisure which fell to their lot in their early

professional career, in pondering those weighty sentences with which LORD COKE commences that admirable introduction to his *Book of Entries*:—"He that duely considereth (learned Reader) the theoricke and practique parts of the laws of England, that is the Knowledge in universalities and the Practise in particulars, shall find that most aptly to be applied to this profession that long since was spoken of another, *Ars longa, vita brevis, studium difficile, occasio praeceps, experimentum periculosum*. A learned man in the laws of this realm is long in making, the student thereof, having *sedentariam vitam*, is not commonly long-lived, the study abstruse and difficult, the occasion sodaine, the practice dangerous." Those who are so happy as to live under the administration of the law by one whom the highest authorities at the bar, and upon the bench, in North Carolina, unite in characterizing as in every various quality of ability, accomplishment, firmness, purity, patience and courtesy, entirely fitted for the highest judicial station, will find small cause to regret that William H. Battle spent so little of his time, twenty-five years ago, upon the *assault and battery*, and *petition* dockets of his circuit; nor will they be slow to acknowledge the claim upon North Carolina, of that gentle and patriotic influence which preserved one of its chief ornaments to the magistracy of the state.

The county of Franklin, in those days, supported the administration of General Jackson, by a vote of at least seven to one; and Mr. Battle found himself with small prospect in the line of political promotion. However, having been twice defeated in previous years, he was elected to the lower house of the legislature, in 1833, by a very large, and in that county, almost unprecedented majority. He was chosen a second time, in spite of violent political opposition, in 1834; and under written instructions, prepared after his election and signed by a large majority of the voters in the county, voted for the Hon. Bedford Brown for United States Senator. Although thus ready to acknowledge the right of the people under proper circumstances, to control the action of a representative, yet during the same session he strenuously opposed, and in a minority of twenty-eight out of some two hundred members, voted against the abstract proposition that the legislature has a right to *instruct* senators in Congress. Mr. Battle never was a partisan. Although decided in his views of public policy, his natural temper was averse to the heats and bitterness of public life. Excepting an attendance upon the convention which nominated General Harrison for the presidency, in 1839, his career as a politician closed with his second session in the legislature. Since that time he has given himself entirely to his profession, and although he may retain ancient preferences for principles, no man is more conscientiously alive to the necessity for excluding from his present sphere of duty, the fatal attraction and bias of partisanship.

In 1832, Mr. Battle had occupied himself in preparing for the press a second edition of the first volume of *Haywood's Reports*. Members of the bar in North Carolina take great pride in the ability displayed in this early record of the decisions of the state tribunals. A learned gentleman remarked some twenty years since, that, although a constant reader of the English Reports, the only case from the American books

which he had seen cited in them, was that of *Ingram v. Hall*, contained in 1st Haywood, in which the court considers and exhausts the common law learning upon the question—what are the essentials of a *deed*? A second edition of this book being called for, Mr. Battle undertook the task, and greatly improved it by the addition of notes, directing the reader's attention to such changes as, in the course of forty years, legislation or new decisions had introduced into the state law. The manner in which he acquitted himself of this employment, made so favorable an impression upon the governor of the state, that in the course of the next year he was appointed, in connection with two eminent gentlemen of much longer standing at the bar, upon a commission raised by order of the legislature to revise the statutes. Previously to this time, questions connected with the *lex scripta* were the most perplexing of any that engaged the attention of the practitioner in North Carolina. Various acts, it is true, extending from the year 1715 to 1820, had been passed by the legislature, which affected to define the portion of English enactment in force here; but the style of definition that was adopted—embraced for instance in such expressions as all statute laws of England—"providing for the privileges of the people," or, "preventing immorality and fraud," or, "not otherwise provided for in the whole or in part," or, lastly, "not become obsolete," shall be recognized as laws of this state, left the matter as much in doubt as before. In order to simplify the subject, commissioners were appointed in 1817 to enumerate and specify the British statutes still to be regarded as law. This was done; but as the specification did not have the effect of repealing such acts as were omitted in the report, and was in no part entitled to more weight than that due to the legal reputation of the gentlemen who made it, it is manifest that there was still room for hesitation. So true is this, that in North Carolina, as late as 1835, a counselor could not give advice upon many matters of every-day importance, without consulting *Ruffhead's Statutes at Large*; and then, having found the statute applicable to his case, perplexing himself infinitely, not only upon questions of obsolete phraseology, but also much more about nice points connected with the *privileges of the people*, technical *immorality and fraud*, *repugnancy to freedom*, and so forth—points of embarrassment created, we may add, by the benevolent wish upon the part of our state legislators to free the subject from its manifold difficulties. To rid the profession of this incubus, and to render private citizens more certain of the law under which they were living, Governor Swain prevailed upon the General Assembly to order the new commission, upon which he appointed Mr. Battle, in connection with Ex-Governor Iredell and Gavin Hogg, Esq.; the place of the last named gentleman, in consequence of his declining health, having been subsequently filled by the Hon. Frederick Nash, now of the Supreme Court. After three years, the commissioners submitted the *revised statutes* to the inspection of the legislature. The publication of this volume was an era in the history of law in North Carolina. The *lex scripta* became settled, citizens were less in danger of innocently involving themselves in litigation, professional gentlemen were no longer necessarily in doubt as to their opinions, and the legislature, by a knowledge of what was the existing condition of the statutes, was better enabled to apply the hand of amendment and reform.

In 1834 Mr. Battle had been associated with Mr. Devereux in reporting the decisions of the Supreme Court. Upon the resignation of the latter gentleman in 1839, he became sole reporter. The duties of this office requiring an almost constant residence in Raleigh, he removed his family to that place in the same year. In August, 1840, upon the resignation of Judge Toomer, Mr. Battle was appointed by Governor Dudley, and in the following winter elected by the legislature, one of the judges of the Superior Courts. His ties to Raleigh being thus severed, and being desirous of superintending in person the collegiate education of his sons, he removed in 1843 to Chapel Hill, where he still continues to reside. In 1845 he was elected by the Trustees of the University to the Professorship of Law, without any regular salary, however, and with no part in the government of the institution. In May, 1848, he was appointed by Governor Graham one of the judges of the Supreme Court, in the place of the Hon. Joseph I. Daniel, deceased, but failed to have that appointment confirmed by the legislature; although by the same body, upon the resignation of the Hon. Augustus Moore, he was, without opposition, chosen to fill again the seat which he had vacated in the spring preceding. The cause of his failure before the legislature is best explained by the following correspondence, which appeared in the newspapers of the day :—

“ *Dear Sir* :—

“ HOUSE OF COMMONS, }
“ *January 9, 1849.* }

“ We have to-day, by a vote highly honorable to the General Assembly, determined, by electing you to the office of Judge of the Superior Court, to do justice to the wishes of a large majority of the good people of North Carolina, without distinction of party.

“ The preference of another to you for a still higher judicial station, was owing principally to your residing in a county where there are already three judges, a governor, and a senator in Congress.

“ In the name of our constituents, and as your friends, we most respectfully ask that you will accept the honor now tendered you by a vote of so large a portion of both parties in the General Assembly.

“ We ask leave to offer our congratulations to you, that in the midst of great excitement no man has attributed to you the slightest impropriety, either in your official or personal conduct—and that you have not sought office, but office has sought you.

“ With high respect, your ob’t serv’ts,

“ EDWARD STANLY,
WM. L. LONG,
RICHARD H. SMITH,
F. B. SATTERTHWAITE,
W. J. BLOW,
R. G. A. LOVE,
NEWTON COLEMAN,
W. B. WADSWORTH,
J. S. ERWIN,
A. G. LOGAN,
THOMAS J. PERSON,
ROBT. B. GILLIAM.

“ HON. WILLIAM H. BATTLE, }
“ *Chapel Hill.* }

RALEIGH, *January 9th, 1849.**

GENTLEMEN :—I have the honor to acknowledge the receipt of your letter of to-day, informing me that the General Assembly have, by a large vote, given without distinction of party, elected me a Judge of the Superior Courts. For this proof of the confidence of the representatives of the people, exhibited without any solicitation on my part, in the midst of much party excitement, I feel profoundly grateful.

If a proper sense of the duty which every man owes to his country, were not alone sufficient to induce me to accept the important and responsible office which has been tendered to me, the very kind manner in which you, whom I take pride in numbering among my warmest friends, press my acceptance of it, would scarce leave me at liberty to decline it.

The complimentary terms in which you have been pleased to allude to the propriety of my official and personal conduct, have excited in me no ordinary emotions of satisfaction, and will serve, I trust, as an additional incentive to urge me to endeavor to secure the continued approbation of my friends and my country.

With high consideration,

I am, sincerely yours,

WILL. H. BATTLE.

To Hon. EDWARD STANLY, and others.

To those who are aware of the amount of prejudice which springs up in other parts of a state against localities that, by temporal good fortune or by accident, have secured a larger proportion of official patronage than properly falls to their share—a prejudice neither unnatural nor generally unwholesome—Judge Battle's want of success will bring but little surprise. On the contrary, they will consider it no small compliment that a resident of Orange county should be regarded as possessing qualities such as to overcome, in any degree, the natural aversion to heap distinctions upon a portion of the state already honored beyond its comparative deserts. Since his re-election, Judge Battle has been sedulously engaged in discharging the high duties of his office. No one better adorns judicial station. Although rivaled, or even excelled, in particular endowments, yet in the sum of qualities desirable in a judge, it were not easy to approach nearer to the model of a magistrate, or to afford a finer exemplar to all who are ambitious of the highest honors of their profession.

It is cause of regret that we have upon record so few specimens of Judge Battle's judicial powers. In North Carolina, no report is made of the proceedings of the Superior Courts; and during the short time in which the judge sat upon the Supreme Court bench, no case of any very great importance or novelty came up for decision. However, there is in the *Reports* a dissenting opinion filed by Judge Battle, in a case of murder, which attracted considerable attention at the time. The point

* It appears from the paper which we quote, that unexpectedly to the gentlemen whose names appear to the above letter, Judge Battle had arrived in Raleigh pending the election, for the purpose of appearing as counsel before the Supreme Court.

upon which the appeal turned was the competency of evidence of the general character of the person killed, with a view to mitigate the slaying to manslaughter. As the dissenting opinion deals rather in arguments derived from the obvious principles of human nature, than in those based upon precedent or mere technicality, we present an extract as a specimen of Judge Battle's manner.

"I cannot concur with the majority of the court upon the question of the admissibility of testimony offered by the prisoner, to show the character of the deceased for violence. * * * All the facts and circumstances which surround the main fact of the homicide, in a judicial investigation, become matters of vital importance, and ought to be admitted in evidence whenever they promise to throw the least light upon it. It seems to me, that the character of the deceased for violence is one of those attending circumstances which will always have some, and often an important bearing upon that which must necessarily be the subject of inquiry—that is: What were the motives which impelled the slayer to act? Take first the case where the prisoner excuses himself upon the ground that he killed the deceased in self-defence. To sustain this allegation, he must show to the satisfaction of the jury, that he was assailed, and that, before he gave the fatal blow, he retreated as far as he could with safety to his own life; or that the violence of the assault was such that retreat was impracticable. Is it not manifest that his apparent danger would depend much upon the general character of the assailant for mild and amiable, or for violent and ungovernable disposition? From an assailant of the former character he would have little to fear under circumstances in which, from one of the latter, his life would be in imminent peril. Let it be recollected, also, that he has to judge and to act at the instant upon the most tremendous responsibility. If he strike too soon, he is condemned to a felon's death upon the gallows; if too late, he falls by the hand of his adversary. Surely the jury that tries him ought not to require proof of the same forbearance when attacked by a man of blood, as when by one generally of peaceable deportment. Undoubtedly his danger would be greater in the one case than in the other. Why, then, it may be asked, shall he not be allowed to prove it? Evidence of the superior physical strength of the deceased is always admitted; why, then, not admit evidence of that which gives to physical strength much of its force and all of its dangerousness? It appears to me, likewise, that the privilege which the prisoner has of showing his own reputation for peaceable demeanor, is of an analogous nature. Testimony for the prisoner of this latter kind is not only admissible, but it has been said by authority very high in North Carolina, that it is frequently of much weight. * * But it is said that the right to kill does not depend upon the character of the slain; that the law throws the mantle of its protection alike over the violent and the gentle, as the rain falls from Heaven equally upon the just and the unjust. It is true that the killing of a violent and bloodthirsty man, without provocation or excuse, is as much murder, as the killing of any other man; but I contend that, in ascertaining whether there was any such provocation or excuse, the character of the man for violence affords important presumptive testimony in behalf of the accused. It is urged, again, that where the proof that there was no legal provocation is posi-

tive and clear, the evidence of character can have no effect, and therefore ought to be rejected. To this I may answer, that plenary proof upon one side can never justify the rejection of testimony otherwise competent upon the other. The argument so advanced appears to me to confound the *competency* of testimony with its *effect*."—*State vs. Barfield*, 8 Iredell, 344, *et seq.*

Judge Battle is yet in the prime of judicial life. A constitution naturally good, and well fortified by regularity of life and an even temper, has preserved his outer man from the marks incident to *vita sedentaria* and close study. As an officer and as a man he is remarkably popular, and enjoys the entire confidence of the community. In truth, it seems to be one great aim of his life to render the administration of justice acceptable,—not wholly unacceptable even to the punished. In no case has he sought or indeed placed himself in the way of official advancement. Unless in some exalted sense, we may say that in a free country and uncorrupted age, he who most clearly manifests his fitness for high office, most seeks promotion and most places himself in its way. So has it been in North Carolina in the past, consecrated by the elevation of Haywood, Taylor, Henderson and Gaston; so all admit it to be now whilst Ruffin presides in the last resort; and that it may continue the enviable distinction of the state to a late posterity, must ever be the fervent prayer of her true citizens. We have confidence that this reputation will never suffer by any act upon the part of Judge Battle. Except in the way of earning, through long years, a name for modest excellence, unstained and unobtrusive morality, unwavering courtesy, extensive learning, and a judgment firm and impartial, it cannot be said that he ever solicited any man's influence or vote. With hearty acknowledgment of the past usefulness of this her worthy son, his native state looks forward to many other years of service and renown.

In stature, Judge Battle is under the average size. He walks with an active step, is uniformly neat in his person, has an engaging address, and his features commonly wear a pleasant smile. He is a consistent member of the Episcopal Church. Since 1833 he has occupied a seat on the board of trustees of his Alma Mater. In this capacity he is a zealous and useful co-worker with his friend President Swain in carrying forward many improvements which distinguish the later years of the University. We have before us two printed addresses by Judge Battle; one delivered at Wake Forest College in 1846, the other in 1843 upon the death of Judge Gaston, before the students of the University. Although he has thus occasionally ventured into the walks of literature, we cannot find that he has at any time been a regular votary of the Muses. Indeed, as since the time of Blackstone it has been quite the rage with lawyers, upon arriving at a certain time of life, or in entering upon the duties of some engrossing office, to labor out and publish a score of creaking elegiacs in farewell of such Muse as up to that time they may have fancied themselves faithful to; and as we have never stumbled upon anything of this sort from Judge Battle, it is fair to conclude that he has never entered into such bonds. Nor would it be difficult to hit upon the direction in which his vows have gone up. He is very happy in his domestic relations, and whenever off his circuit, if not engaged with his law classes, or in advancing his acquaintance with

his profession, may be found in the bosom of his family. That he may fail in no index of the good citizen, Judge Battle has been blessed with a goodly number of promising children. We trust that the future has in store for him every happiness that can fall to the lot of the Christian, the good husband, father and friend.

S. F. P.

January 8, 1852.

HON. EDMUND DILLAHUNTY,

OF COLUMBIA, TENNESSEE.

HON. EDMUND DILLAHUNTY was born September 28th, 1800, on Richland Creek, a few miles south of Nashville. His ancestors were Huguenots, who fled from France after the revocation of the edict of Nantes, to enjoy, in the wilderness of America, that political and religious liberty denied to them by the bigotry and superstition of their own government. Burning with a hatred of oppression, they settled on Chesapeake Bay in 1715, and helped to kindle that fire of freedom, whose light has gone forth from the American forests to dispel the gloom with which the long night of tyranny had shrouded the western hemisphere.

The name is of French origin, and was originally spelt De la Hunti; but his grandfather, Rev. John Dillahunty, having, at an early period, received an appointment connected with the land office in North Carolina, the name was spelt as at present in his commission; and under the advice of counsel he changed the spelling of his name so as to correspond with his commission.

His father, Thomas Dillahunty, was but eight years old when the Revolutionary War broke out; and was, of course, too young to take any part in that memorable struggle. Arriving at man's estate, he found his father's fortune wasted by the war; and despairing of being able to repair it in North Carolina, his adventurous and enterprising spirit led him to seek a home in the wilderness, west of the Cumberland mountains; and he settled where the subject of this sketch was born, when the city of Nashville was a small village, and the splendid country around it, now adorned with elegance and taste, was almost an unbroken forest. Born and reared amid the toils, dangers and privations of a pioneer life, young Edmund acquired that energy and perseverance of character which have elevated him to his present honorable position. A character whose first principles were thus formed must be enduring; and a mind where young energies were trained amid the stormy events of such a period, naturally acquires the habit of regarding no difficulties and obstacles as insurmountable, and nothing as invincible but itself.

So soon as large enough to do efficient labor, he was placed on the farm, where he remained until he was about nineteen years of age; and at intervals, between the making and gathering of the crop, he was sent to the common schools of the country, where he acquired the elements of an English education. Having selected the law as his pro-

fession in life, he was sent to Greenville College, East Tennessee, where he remained for two years, but from choice retired, without receiving a degree. The class of which he was a member while at college, has furnished several distinguished names; among whom we recognize those of General Robert L. Caruthers, and Charles Ready, Esq., of Tennessee, and the late General George W. Crabb, of Alabama.

On quitting college, he returned to his father's home, then in Alabama, and after remaining a short time with the family, he went to Columbia, Tennessee; and in 1823 commenced the study of the law, under the instructions of Robert L. Cobbs, Esq., one of the most distinguished lawyers of his day. In the following year he was licensed to practice law, and shortly afterwards received the high compliment of being taken into full partnership with his preceptor, which at once introduced him into an extensive and lucrative practice. His industry was untiring in the investigation of his causes, and he never came to their argument but after thorough preparation. His competitors soon found that they had but little to profit by his surprise or negligence. As a lawyer, his speeches were characterized more by strength and solidity of argument, than by rhetorical flourish and elegance of diction.

In 1831, he was elected Attorney-General for the eighth Judicial Circuit, by the Tennessee legislature, over the most powerful opposition that a young man ever encountered. The duties of this responsible office he discharged with ability and success, although sometimes encountering in his prosecutions that arch magician of criminal lawyers, the late Felix Grundy.

At the close of his term of service as Attorney-General, he was elected judge for the same circuit; and so marked has been his ability, and so universally acceptable to both bar and people his conduct as a judge, that he has twice been unanimously re-elected to the same office. Learned in the law as a science, prompt in the decision of questions of law and evidence as they arise before him, patient in the argument and investigation of causes, and proverbially respectful and courteous to the profession, none seem to desire that his place should be given to another.

But few positions involve more responsible duties, or afford more opportunities of doing good, than that of a circuit judge in Tennessee. His character is, in some degree, the standard for the bar, and his morality that of the community. If the fountain of justice be pure, it sends out a thousand streams that cover with moral beauty and verdure wherever they flow; but if that fountain be corrupt, it distils its poison into every ramification of society. He who reflects back on the judicial ermine no less of honor than he receives from it, is a great public benefactor, and more justly deserves the applause of mankind than the military conqueror, whose triumphs bring slavery and degradation on our race; and armed, as he is, with the power and authority of the law, he addresses himself alike to the fears and interests of offenders, and hence seldom fails of being obeyed.

As a judge, the subject of this sketch has endeavored to elevate the tone and feeling of the bar; to give the people confidence in the administration of justice, by convincing them that it is the palladium of their rights; to direct public attention to the great truth, that ignorance

and intemperance are the parents of well nigh every crime; and to bring all the powers of the law to the punishment of wickedness, and the protection of weakness and innocence. Under his administration many inveterate offenders against the law have been reclaimed, and become useful members of society; and in some portions of his district once distinguished for lawlessness, the grand jury have, of late years, sat during a whole term without finding a true bill.

In 1845, during his absence, and without any solicitation on his part, he was elected Grand Master of Masons in Tennessee; and in 1846, was unanimously re-elected to the same place. In those two years he visited and lectured to most of the lodges in Tennessee, and Masonry was abundantly prospered by his labors. His annual addresses to the Grand Lodge were received with enthusiasm by the brethren; and the elevated sentiments of morality they inculcate, are doubtless treasured up in the hearts of all true masons as a part of the jewels of the order. At his urgent solicitation, and that of a few others, the Masonic Lodges of Maury county were induced to purchase Jackson College, for the education of the sons of destitute masons. He is the duly elected visitor and lecturer on international law in this college. This institution is located at Columbia, and is in a most flourishing condition, and dispenses in our midst that sublime charity which is the key-stone in the masonic arch: for the sons of all destitute masons in this or the surrounding counties, can here enjoy the blessings of a thorough classical education, and that too, like the mercy of heaven, without money and without price. It is the child of his old age, and will long live as a monument of his liberal and enlightened policy.

For the past sixteen or seventeen years of his life, Judge Dillahunt has, both by precept and example, waged an aggressive war upon intemperance, and with a success that has blessed the labors of but few. All the energies of his mind, all the influence of his character, and all the powers of his office, have been brought to the suppression of this great evil. And in many instances by his efforts, hearth-stones where the demon of drunkenness had strewn the cold ashes of despair, have been lighted up by the fires of domestic peace and content.

Judge Dillahunt resides one mile and a half west of Columbia; and nature, improved by art, has made his country-seat one of the loveliest places in the world. There we may find almost every variety of shrubs and flowers, to the cultivation of which his leisure hours have been devoted with a passionate fondness. But for the taste and elegance with which this rural retreat is adorned, we are chiefly indebted to his elegant and accomplished lady.

In person, Judge Dillahunt is above the average size; and in manners easy and prepossessing. Whatever may be the world's opinion of his ability as a judge, as a writer or speaker, it is around the social fireside, in the company of a few select friends, that he evinces the greatest superiority. Originally of a delicate constitution, yet by a strict regimen, and a faithful observance of the laws of life, he has enjoyed good health. And though time has sprinkled the frosts of its winter on his head, still his cheek has not lost its bloom, nor his eye its brightness. Everything about him indicates that he will enjoy a green old age, and the course of his life be like a summer evening's close.

HON. HENRY W. TAYLOR,

OF CANANDAIGUA, NEW-YORK.

THE birth-place of Judge Taylor was the small, but extremely romantic village of Deerfield, in the state of Massachusetts: a village somewhat noted for its sufferings, by reason of Indian incursions, and their atrocities, during the last quarter of the 17th and the first quarter of the 18th centuries.

His father was a clergyman; and for nineteen years the only pastor and settled minister of the gospel in that village. His salary was three hundred and thirty-three dollars per annum, upon which pittance he, for several years, supported his family, and reared seven children.

In 1807, he removed to Enfield, in Connecticut, having been disabled from the performance of his clerical duties by a disease which deprived him of his voice. He was ardent in his love of learning, and anxious that his sons should receive a collegiate education; but as may well be imagined, his pecuniary means responded but feebly to such aspirations. He, however, agreed to provide the necessary funds for his son Henry, so far as his limited ability would permit; and for the rest, he must trust to his own resources.

In 1812, Taylor was matriculated into the Freshman class of Yale College, and graduated there with honor in 1816.

After his graduation, he immediately commenced the study of the law; and after the usual period spent in the offices of Spencer Coleman, of E. Bloomfield, and the Hon. John C. Spencer, of Canandaigua, he was admitted to the bar at the close of 1819, and on the 1st January, 1820, opened an office in that village.

He was enabled thus to prosecute his studies without interruption, through the liberality of a much respected uncle, the late Hon. N. Terry, of Hartford, to whom he found himself indebted when he commenced business near \$1,000, which, with his other pecuniary obligations, exceeded \$1,200.

The village of Canandaigua at that time contained a population falling short of two thousand; but small as it was, it marshaled at its bar an array of the legal profession hardly equaled at any other in the state, and withal as much distinguished for moral worth as for professional talent.

Among them were Nathaniel W. Howell, John Greig, John C. Spencer, Dudley Marvin, William H. Adams, Francis Granger, Walter Hubbell, M. H. Sibley, Jared Willson, with others worthy of these professional associates.

In the face of such a bar, and staggering under the weight of his oppressive debts—destitute of all means or resources but his practice, and with no patronage or family influences to aid in the acquisition of business—he commenced his professional life.

The difficulty of his position was forcibly illustrated by an incident somewhat characteristic of the learned, amiable and honored Kent.

At that time the rule required that an attorney should practice for

three years in the law courts before he could apply for admission to practice in chancery. This probation having passed, and young Taylor being in Albany, arranged, through a friend, to take his examination in the evening, at the chancellor's room.

At the appointed hour the chancellor received him very cordially—requested him to take a seat, and entered into an animated and most agreeable conversation about things foreign to the purpose of the meeting, which lasted for half an hour or more : when, seeming to awake to a consciousness of the business in hand, he suddenly turned and accosted him with, “I believe, Mr. Taylor, you came to be admitted to practice in my court,” and “where do you reside?” Being informed, he added in a way peculiar to himself—“and have you practiced law for three years in Canandaigua?” “I want no other examination or proof of qualification: any young man who can sustain himself for three years at such a bar as they have at Canandaigua, is entitled to a license to practice in my court.”

Doubtless a wise decision would have led him to select a different spot for the commencement of his professional life ; but necessity rather than choice settled the matter ; for having incurred pecuniary obligations at C——, utterly beyond his ability to meet, he was too proud to leave the place until those obligations were discharged.

His first suit in the Supreme Court was an action of ejectment, against a man residing forty miles distant. As might be supposed, he was greatly elated at his success—but his joy was considerably qualified, when he met the sober fact, that he had not the means to pay for service of the declaration ; and in this dilemma, he actually rode that distance on horseback, through a driving storm of snow and sleet, to serve it himself ; having borrowed money to pay for his supper and lodging.

Few young men have ever commenced professional life under circumstances more disheartening than those of young Taylor : and they are referred to here, for the encouragement of others similarly situated, who may feel the burden of such discouragement too heavy for them to endure. Many such have sunk under its oppressive weight, and abandoned a profession which they might have honored, could they have been persuaded that patience, perseverance, industry, and rectitude of conduct in all the relations of life, would have ultimately been crowned with success.

In 1836, he was elected to represent the county in the legislature, in which station he continued to act for four years, much against his own wishes, but at the urgent solicitation of his political friends.

At the time he took his seat, January, 1837, the custom of opening the daily sessions with public prayer, had for some years been discontinued, through the influence of Mr. Herttell, of New-York, and others, under the prevailing conviction that the practice had become unpopular.

Against the judgment of several eminent friends,* whose advice was given under the impression that any such movement must prove abortive, Taylor, at an early period of the session, introduced a resolution, inviting the clergy of Albany to officiate as chaplains. This, as

*Judges N. W. Howell, J. Sutherland, and Samuel M. Hopkins, of Ontario County.

was expected, called out decided opposition, to which the mover replied in a speech, which was very generally circulated through the state. The resolution was rejected, by a vote of near or quite three to one.

But so thorough a change had been wrought in public sentiment, in the mean time, that, on a renewal of his motion, at the succeeding session, he had the satisfaction of seeing it adopted by a unanimous vote.

In his Political History of New-York, Mr. Hammond states that immediately after the suspension of payment by the banks of this state, Mr. Tracy introduced a law into the senate to suspend the operation of the law prohibiting the circulation of small bills, which was rejected, and afterwards states: that "Mr. Taylor, of Ontario, an active and leading member, either brought in a bill or gave notice to that effect, (to repeal the law,) on the first day of the (next) session." Thus leaving the inference, that both the movement of Mr. Tracy and Mr. Taylor arose out of the exigency of the suspension by the banks. But so far as Mr. Taylor was concerned, his action was in no way prompted by that occurrence, but by the settled opinion, that the law was useless and pernicious: and this appears from the fact, that on the 18th of April, and nearly a month before the suspension, he introduced a bill to repeal that law—at that time, by no means a popular movement. Had not this circumstance escaped the notice of Mr. Hammond, he would not, it may be presumed, have charged upon Mr. Taylor motives altogether unsustained by a fair statement of the case.

These two matters, small as they seem to some minds, became the theme of universal discussion during the succeeding political campaign, and no doubt contributed, in an eminent degree, to the most complete and remarkable revolution known to the political annals of this state.

While in the legislature, Mr. Taylor was repeatedly chairman of some of the most important committees, requiring great diligence and discrimination in the discharge of his duty.

He took an active and efficient part in the creation of our free banking system, and in originating and perfecting many other laws, the prevailing principles of which have now become the settled policy of the state.

In 1839, he disagreed with his political friends in the policy of electing Mr. N. P. Tallmadge to the United States Senate; and during that session and the succeeding one, he used every proper means to defeat his election. The wisdom of his course has since been very generally admitted by the whigs of the state.

He was also a member of the Harrisburg Convention, which nominated Gen. Harrison for the presidency. The truth of history has been strangely perverted in the public mind, touching the doings of that Convention; and more especially the action of the New-York delegation.

It has been affirmed that "Mr. Clay was, unquestionably, the favorite candidate of the great mass of the whig party in the nation, and especially of the whigs of New-York;"* and, with equal confidence, that

* Hammond's Political History, Vol. II., p. 528.

the delegates from this state betrayed their trust, by voting against Mr. Clay.

Forty delegates were chosen by the whigs, in their respective congressional districts. At an informal meeting of the whole delegation in New-York, on the day preceding that appointed at Harrisburg, it was ascertained that two-thirds of them were unchangeably opposed to Mr. Clay's nomination; they had been so chosen, and continued steadfast in their opposition to the end.

If Mr. Clay was the unquestionable favorite of the great mass of the whig party of New-York, at that time, they took an extraordinary mode of exhibiting their favoritism; and if the delegates, so chosen, did violate their trust in refusing to vote for Mr. Clay, the proof of this treachery is still more extraordinary.

The wisdom of the choice was exemplified in the success of the candidate.

Of that portion of the New-York delegation who had voted first for Scott, and finally for Harrison, Taylor stood alone, in opposition to Tyler for Vice-President.

It was known that he had been elected to the United States Senate by one political party in Virginia; and when, at a subsequent election, the opposing party, being in a majority, had *instructed* him in his duty, he not feeling disposed to act upon the instructions, had resigned his seat, to be filled by them. Mr. Taylor argued, that a senator, who should thus faithlessly sacrifice the interests of those who had confided to him so high a trust, at the bid of their political opponents, was not entitled to the confidence of any party. The history of Mr. Tyler's administration is the best commentary upon those views.

At the close of 1840, he removed to the state of Michigan, and having accomplished the main object of his sojourn there, in 1848 he returned to his former place of residence, and resumed his practice in the courts of this state.

The death of Judge Maynard having occasioned a vacancy upon the bench of the Supreme Court, Taylor was appointed by Governor Fish, in March, 1850, to supply his place, and immediately took his seat in the Court of Appeals.

This appointment continued in force until 1st January, 1852, at which time Judge Taylor recommenced his practice at Canandaigua, as a counselor at law. :

It may not be inappropriate to add, that Judge Taylor's ancestry were all of the early Puritans of New-England; among whom were Dwight of Dedham, and Governors Bradford of Plymouth, and Haynes and Wyllys of Connecticut.

HON. JAMES M. WAYNE,

OF GEORGIA, JUSTICE OF THE SUPREME COURT OF THE UNITED STATES.

TO WRITE a memoir of a living man—that is, to present a faithful record of his life and acts; of the impressions he has made, and is still making, upon his times; of the bias he has given, and is still giving, to public sentiment; and to indicate the logical deductions which may reasonably be drawn, prospectively, from the influence he has exercised, and is still exercising, upon men and things around him, is a task of no ordinary difficulty and delicacy. That the opposite opinions and discordant statements of his acts, as determined by the interests, passions, and prejudices of individuals, will be investigated with the sternness and impartiality that the composition of history, in its most extensive view, demands, is not to be expected; nor, from the very nature of the task, can full force and measurement be given to the inferences which his actions will assuredly develop. It remains, then, for his contemporary biographer only to present an accurate narrative of events in their natural and unbroken sequence, neither suppressing nor concealing important circumstances, nor giving undue prominence to trivial incidents; limiting his philosophy to effects already produced, and to probable future conclusions; carefully avoiding, however, in deducing them, the semblance even of crude or vague speculation. But in this limited field of narration, he must none the less, if he really designs to enlighten and instruct mankind, studiously aim at “that nicety and strength of reflection, and that subtilty and discernment in the unraveling of character, and that choice of circumstances necessary for enlivening the whole narration,” which Addison tells us is essential for placing a public character in a proper light, that the merit designed to be perpetuated may not be handed down to posterity with disadvantage. With such impressions of the duty we have undertaken to perform, we proceed to sketch the history of a distinguished jurist, who now occupies a prominent position in our legal circle.

The twelfth of thirteen children, JAMES MOORE WAYNE, now Mr. Justice Wayne, LL.D., of the Supreme Court of the United States, was born in the city of Savannah, in the state of Georgia. His father, an Englishman by birth, came to this country early in life; and marrying a Miss Clifford, a descendant of a family which emigrated from England to South Carolina as early as 1687, established himself in business in Charleston, whence he removed to Savannah. Of the thirteen children of this union, but two now survive, the subject of this memoir, and his younger brother, General William C. Wayne, at present residing in South Carolina.

The first schooling of Judge Wayne was such as could be afforded by the limited opportunities of a remote and unimportant southern town, as Savannah then was; but an ill turn in business causing the

removal to Savannah from Charleston, of a Mr. Mackay, an Irish gentleman of high character and scholastic attainments, a graduate of Trinity College, Dublin, and who had married into the old Huguenot family of the Bacots, connected with that of the Cliffords, gave him the advantages of a private tuition, which laid the foundation of those attainments, and of that persevering application, which have carried him through many offices of public trust and honor, to the high judicial station he now fills.

The training given to him by Mr. Mackay must have been severe, for in a familiar sketch of his own life, written for the amusement and information of his children, he says of it: "Perhaps he (Mackay) pushed me too fast for my age, especially as he enforced all of my lessons with discipline. In some particulars, I do not even at this day think of the latter pleasantly; but I owe him much, and have always been grateful." The result of this training was shown, in his being presented by Mr. Mackay, at Princeton, as a candidate for the Freshman class, at an age so young, that after having been examined and found qualified to enter, he was told, that on account of his youth, it was best for him to be kept back a year, and in the mean time to pursue his studies under one of the college tutors. This suggestion Mr. Wayne has always attributed to his father, who, while gratifying the natural scholarly pride of his teacher, wisely continued his son under restraints necessary to his age and inexperience. The selection of the tutor for this purpose was as judicious as the selection was wise. The gentleman chosen was Mr. Tutor Neal, afterwards a divine, and eminent as a preacher and theologian. His dignified manners, kindness and good advice, made serviceable and lasting impressions upon his youthful pupil. At the end of the year the young candidate for admission entered the next Freshman class without another examination.

The following concise account of his academic career, in his own language, is introduced here, solely to guard others against the error he committed, and of which he, painfully, felt the consequences for a long time afterwards. No youth can hope to gain anything, at all equal to what he will lose, by neglecting his elementary studies for any general course of reading. Do what he may, subsequently, to make up for it, he will often find his want of foundation preventing him from rendering what he knows besides useful; or efficiently so, for his own advancement and distinction.

"For more than two years," he writes, "I was a student in the books of my classes. Afterwards, I was diverted from them into a general course of reading, and graduated without much distinction, but not without being assigned to represent my class as one of the speakers at Commencement. I lost a great deal by this neglect. It is true, I had not been idle. I read and wrote much from a desire to be distinguished for composition and in debate, but I gained nothing in comparison with what I lost, for my mind was not matured enough to profit from the higher course of history and philosophy, which were substituted for my college studies. In other words, I was graduated; knowing something of my course, but scarcely anything of it with exactness, excepting logic, and that I learned because I liked it. For-

tunately, my deficiencies were detected by a clerical friend* in a short time after I left Princeton, and nine months were passed by me in efforts to repair my mistake, under the instruction of two New-Haven graduates, who had passed through their course without committing my fault."

In other respects, his college life passed happily and pleasantly; and there began acquaintances and associations which have been mutually and cordially recognized in after years. Of his companions at this period who have attained eminence and distinction in the paths they have since severally trod, confirming the bright anticipations which their early abilities and high characters then induced, may be particularly noted—Mr. George Wood, the eminent lawyer, of New-York; Bishop Meade, the distinguished prelate of Virginia; Mr. Richard S. Coxe, the able and accomplished counselor of Washington City; the Hon. Benjamin C. Howard, the sterling statesman of Maryland; and the Hon. George M. Dallas, late the Vice-President of the United States.

Few of those who have passed through NASSAU HALL, in reviewing their collegiate career, and the influence it has exerted upon their character in after life, can hesitate to attribute a large portion of it to the society to which they belonged. Two literary societies exist in that college, the "Cliosophic," and the "American Whig." The generous rivalry which subsists between these bodies furnishes a powerful stimulus to individual exertion. Their proceedings are secret, but the fact that all the faculty are members of the one or the other, and as such, have access to their meetings and proceedings, furnishes an ample guarantee as to the correctness of their deportment. Mr. Wayne belonged to the Cliosophic Society, and it is not too much to say, that within its walls he formed many of those friendships which have lasted through life, and that he there confirmed those principles of manly firmness, high toned honor, and pure integrity, which have characterized his whole career. With one exception, all the college friends above named were members of the same society.

Returning home, Mr. Wayne immediately commenced the execution of a purpose, previously formed, to study law, by entering the office of the late John Y. Noel, one of the leading lawyers of Savannah. But the death of his father occurring within a few months afterwards, he left Savannah, by the advice of his immediate friends, to prosecute his professional studies at the North, where he could do so more advantageously. New-Haven was selected as best suited for the accomplishment of his purpose. Repairing thither, he became the law pupil of Judge Chauncey, a retired official of high legal education, who devoted a portion of his time to the preparation of students for the bar. He was the father of the late Charles Chauncey of Philadelphia, and of Elihu Chauncey, both distinguished in different ways, and for characters worthy of their name.

As commemorative of this high-minded and estimable gentleman's peculiarities, which will be instantly recognised by all who knew him,

* The late Rev. Henry Kollock, D. D.

and as illustrative of his method of instruction, conveying useful hints for legal education, while at the same time the continuity of our narrative is preserved, we shall here quote Judge Wayne's own description of his New-Haven course. "I can never forget Judge Chauncey," he writes, "for in his parlor and office were laid the foundation of my professional career. But I did not get into either, without much questioning of, 'who I was'—'where I had been'—'what I had done'—'why I came to him'—and not before he verified, in some measure, my answers, by examining me in both Latin and Greek; saying, that he had never undertaken to teach any one the law, who was not prepared for it by previous education. The end of it was, that after a week, I was sent for to begin my course. He was well acquainted with his profession and its literature. First, he gave to me alone, for his other students were advanced, several lectures upon the ethics of the profession, illustrating them by narratives and anecdotes from the lives of eminent lawyers. These were not conversations, but precisely written chapters upon the practice of the profession, in the different relations of lawyer and client, lawyer with lawyer, and lawyer with the court and jury, in which were traced their obligations to each other, with exactness and truth. I was then lectured for three or four months upon the Roman law. First, historically, as to its sources and its reception in Modern Europe, and then in its subdivisions concerning persons, things, rights, the modes of prosecuting them, and in all of those analogies in relation to contracts, which exist between it and the English common law. It was in this course that the Latin I had learned was of use to me, and it has been so ever since professionally. In connection with this course, I was carried through the history of the English common law, before I was permitted to take up any of the works ordinarily first used in getting a knowledge of the law. Hale's History of the Common Law was his text, and Edward I. his hero. Every statute of that prince's reign, and of each succeeding reign, in any way bearing upon the improvement of the law, I was made to know something of, in contrast with the antecedent defective condition of English law. My instructor did everything he could to point out the road for my future travel in the profession, and it is my own fault if I have not made the journey. Circumstances which I could not control, forced me to leave Judge Chauncey sooner than I wished, after I had been with him for twenty months. When taking my leave of him, he put into my hand a complimentary certificate, with one of his characteristic remarks. It was to this effect: 'I have tried to make a lawyer of you—go—but do not think yourself one yet. Continue to do as you have done with me, and I may hear before I die that you are one.' Nor did his interest in me cease with our separation; for, having been told sometime afterward, that I was more devoted to social pleasures than he thought consistent with my becoming a lawyer, he wrote a friendly letter to me, very much in his peculiar way. It was as follows: 'I hear of your health and am glad of it; but I hear also, that your time is very much given to balls and dinners. That is not the way for you to become a lawyer. Others have tried it without success, and so will you.' As regards myself, he was more than half right. Under

strong allurements, I was giving myself too much to society, in a vain hope that I could divide my time between study and pleasure. It did not answer though——.”

His stay in New-Haven was of much use to him in other respects than the study of the law. His associates there were young men who had been reared in the town, under the sanction of parental authority and affection whilst they were in college. A literary club was formed by them, of which he was a member, in which questions were debated, and essays written for the newspapers, but not published without a vote of the society. Mr. Ralph J. Ingersoll, recently our minister at St. Petersburg, but before that a working and able member of Congress, was a leader in this society. Here also commenced his intimacy with Mr. B. F. Morse, then giving the promise of his after distinction as an artist, and now so universally known for his electro-magnetic telegraph. It was in New-Haven, also, that he first saw the intercourse of society resting upon the merits and acquirements of lessons, and how much literature lifted up those who have it and can use it agreeably, into a position of equality with any and every artificial condition of life.

Returning from New-Haven to Savannah, Mr. Wayne passed the first five months in the office of his brother-in-law and guardian, Mr. Stites, for the purpose of becoming familiar with the practice in Georgia. At the table of Mr. Stites he became acquainted with the older members of the bar in Savannah, and, fortunately, gained the kind consideration of most of them. Of these, the leader in age and learning was his first instructor, Mr. John Y. Noel, who had been a favorite pupil of Mr. Justice Paterson, of the Supreme Court of the United States. Next to Mr. Noel, stood Charles Harris, whose memory still excites the tenderest sensibilities and warmest admiration of all who knew him. Then came Judge William Davies, whose solid judgment and industry carried him to professional eminence.* After these were Thomas U. P. Charlton, who had much learning with great genius, and John McPherson Berrien, the present venerable senator from Georgia, whose professional celebrity and distinction as a speaker are now national, as it was then evident they would be. All of these gentlemen would have been distinguished lawyers any where—Judge Berrien, alone, survives. From him, whilst he presided in the Superior Court of the state, and from his practice afterwards, Mr. Wayne states, that he learned a great deal of law, and how to use it in the management of a cause.

About this time Mr. Wayne became engaged to his wife, Miss Mary Johnson Campbell, daughter of Alexander Campbell,* of Richmond, Virginia, a young lawyer of rising reputation and brilliant eloquence, but whose early death, while holding the office of United States District-Attorney for Virginia, destroyed the expectations of legal distinction which his opening professional life had excited. Miss Campbell was then several years within her minority, and Mr. Wayne

* See Beattie's Life of Thomas Campbell.

not yet out of his. They were married,* and he established himself in Savannah as a practising lawyer.

A partnership, previously formed with Mr. Samuel M. Bond, a first-rate draftsman and conveyancer, and a good lawyer, was not without success, but was of short duration; the domestic condition of both gentlemen making it the interest of both to separate; and Mr. Wayne settled down alone and in earnest to the practice of his profession. The older practitioners mentioned aided him, and each at different times allowed him to assist in the preparation of their cases, and in conducting them in court. Sometimes he gained credit upon their labors, for it was his habit, whenever a case was given to him beyond his depth, to have it sounded by their better knowledge before he appeared in it in court. But remembering the ethics of his instructor, Judge Chauncey, he never asked any of them for help in any case, without requesting that he might be associated with them—when the case and the circumstances of his client admitted it—and when they did not, he either divided or gave up the whole of the fee he had received. In many cases, all of them voluntarily advised him, and it was not long before he was gratified by being taken into cases with them, upon their suggestion, and thus having his lesser experience tolerated upon an equality in their counsels. Another of his habits—and we cannot too strongly recommend its adoption by students and young practitioners—had been, from the first, to take notes of the arguments of distinguished counsel. This improved his readiness in catching the main point in a cause, and besides, the notes were several times of use to him in arguing his own cases. Of this last advantage we will record one instance, memorable on account of the person engaged.

“In the third year of my practice,” he writes, “I visited New-York, and whilst there, went one day into one of the higher courts held in the City Hall. There were many spectators, and it was very plain that a cause of some importance was on trial. I made out to get a tolerable seat, and remained until the evidence on both sides was closed. The court then adjourned for the day, to meet the next morning. I had been told that Mr. Emmett and Mr. Wells were the leading counsel in the cause, and that one of them would begin the argument in the morning. I was there early. The room was soon filled. I had pencil and paper with me. I took the arguments of both of the gentlemen as minutely as I could, more as an exercise than from any expectation that I would have a like occasion to use them. It turned out, however, differently; for, several years afterwards, I was employed in a cause, on the right side of it, too, involving the identical point of that. I used, almost without addition, my notes of Mr. Wells’ argument, having the power from Mr. Emmett’s, to anticipate everything against it, and out of both I made my argument. The case was won.”

The first five years of his practice were not, however, exclusively professional. He was drawn from it into public life, in the first instance, by an inducement which bore hard upon the profession in Georgia. The legislature had passed what is commonly known as a relief law

* The fruits of this union were three children, two of whom survive: Brevet Major Wayne, of the United States Army, and Mrs. Cuyler, wife of Dr. John M. Cuyler, a surgeon in the army, and who has served in many active campaigns in Florida and Mexico, with high professional distinction.

for debtors. Suits could not be commenced against them: such as had been begun, were stayed in the courts from being carried into judgment and execution; and levies could not be made for the payment of judgments obtained before the enactment of the law. Judge Berrien, then presiding in the Superior Court of Georgia, took the lead in showing and deciding that such a law was unconstitutional. Mr. Richard Henry Wilde, of Augusta, published a well written and learned pamphlet against it, with great success; and there was organized an opposition to the law, for its repeal at the sitting of the next General Assembly. Public sentiment in Savannah was against the law, and became more efficient from the stand Judge Berrien had taken, and from the violence of the advocates of the law against him, in other parts of the state. Candidates for the General Assembly were selected in every county of the state with reference to their advocacy or opposition to the relief act. In Chatham county, in which is the city of Savannah, Mr. Wayne was put forward as a candidate, and was elected by a large majority. It was his first appearance in public life, or in politics, and was the means of introducing him to an extensive circle of gentlemen in the General Assembly, who had been prominent in Georgia affairs for a long time, but many of whom had been, voluntarily, in retirement for years, and had only left it for the occasion, to help in restoring the state to an upright position. The proposition to repeal the law, brought out the speakers on both sides, and it was thoroughly discussed. The part borne in this discussion by Mr. Wayne, was his first attempt in political debate, and gained for him the favorable opinion of all who thought with him, and of many of those who were opposed to him. A large number, on both sides, united in asking him to write out his speech for publication. He did so; and it being very generally circulated, formed the beginning of that good will which the people of Georgia have always since shown to him, in every instance in which he has been put before them, or the legislature, as a candidate.

The next year, he was again elected a member of the General Assembly; but the year after, he declined being a candidate, having been placed at the head of the municipality of his native city. As mayor of Savannah, he introduced and established the system of financial accountability in the management of the city affairs, which still exists, and under which they have prospered without loss by the defalcation of any of its officers. Resigning the mayoralty as soon as he could, he returned, exclusively, to the practice of his profession, and worked at it, in partnership with Mr. R. R. Cuyler, now distinguished for his connection with the internal improvements of Georgia, earnestly, industriously and profitably, until, receiving a written communication signed by every practising member of the bar in the eastern circuit of the state, requesting him to become a candidate before the General Assembly for the bench of the Superior Court—which then had original jurisdiction in all cases at law and in equity, and was a court of the last appeal—he did so, and was elected. He presided in this court for five years and a half, and then resigned, to take his seat in the Congress of the United States, in the session of 1829–30, to which he had been elected by the people of the state; Georgia then electing her representatives by a general ticket.

The State Reports, and the records of the Superior Court, sufficiently

show how his judicial duties during this period were discharged; and to the reputation he then earned must, mainly, be attributed his subsequent appointment to the bench of the Supreme Court of the United States, upon the death of that eminent man and distinguished Judge, Mr. Justice Johnson, of South Carolina.

Hitherto the career of Judge Wayne had been, as we have seen, almost exclusively professional, interrupted only by occasional engagements in local state politics, or municipal affairs. We must now trace it in a different and more extended field of action—that of national politics.

The period of his entry into public life is an exceedingly interesting one in the history of our country. The administration of the younger Adams had been terminated in the March previous, by the inauguration of General Jackson. The United States were at peace with all the world; but there were unsettled questions with England, France and Spain, requiring, on our part, delicate treatment and consideration. They had been the subjects of an unsuccessful negotiation, the times in Europe having been unfavorable for their conclusion, although pressed with vigor and ability by Mr. Adams, and his secretary of state, Mr. Clay. Our people were impatient of the delays, and the time had come, when, in order to avoid greater difficulties, it was necessary for our government to arrange the disputed boundary with England, and to settle the claims of our citizens upon France and Spain for spoliations upon our commerce. With the new republics of the American continent we were in friendly relation, but against all of them we had complaints, which were to be adjusted before commercial arrangements for mutual benefit could be matured.

At home, the many questions of domestic policy, bearing directly upon sectional interests and the constitutional powers of the government in legislation, were more perplexing even than our foreign affairs—more embarrassing, perhaps, than ever before in the history of the nation. The tariff—internal improvements—the Bank of the United States—the public lands—the policy to be adopted in relation to the tribes of Indians within the limits of some of the states—were all engrossing and dividing public attention. The last question formed a prominent topic in the new President's message, and was one of vital and exciting interest to the people of Georgia; the Indians within her borders having, under bad advice, formed a separate and new state of the lands occupied by them, which declaration was instantly followed by an act of the General Assembly, extending over them the political and civil jurisdiction of the state, with a settled determination to enforce it. Indeed, no administration had ever come into power with greater or more varied responsibilities, present and prospective.

To add to its difficulties, the Senate was against it, in fact; and its majority in the House of Representatives merely nominal. None of its legislative propositions could obtain sufficient support, much less a party vote. The opposition was active and zealous, and led with talent and ability. With it, too, often acted a number, who, though not ranged under its political banner, voted with it, for the purpose of putting the administration in a minority. The cabinet were not harmonious in feeling, nor in political intentions and anticipations. Many of those who had been most active in bringing General Jackson into

office, were now little inclined to support him ; and some of them had become his strongest opponents. It was plain that his presidential career was to be one of bitter strife between his friends and his adversaries, to be terminated, eventually, only by the decision of the people.

Coming into Congress under these circumstances, and with the confidence of the people of his state, particularly as regarded her Indian difficulties, Judge Wayne, soon after taking his seat, was brought into frequent and close intercourse with the President and his cabinet.

In the arrangement of the committees, he was placed on that of commerce, of which the Hon. C. C. Cambreling was chairman, to whom was conceded by all, notwithstanding his free-trade position and propensities, an enlarged knowledge of the principles of trade, with great practical experience in their operation. It was in the business of this committee, that it was first seen that the representative from Georgia possessed industry with great application, and the ability to defend its action in debate when brought before the house. He was, at the same time, a member of the library committee, which brought him into frequent and pleasant intercourse with Mr. Robbins, of Rhode Island, Mr. Woodbury, then a senator from New-Hampshire, but afterwards an associate justice of the Supreme Court, Mr. Edward Everett, and Mr. Gulian C. Verplanck.

Subsequently, as chairman of a special committee, he reported a plan for the re-organization of the Treasury Department, upon information and views chiefly furnished to him by Mr. Peter G. Washington, then a clerk in one of its bureaux ; and afterwards, he occupied the responsible position of chairman of the Committee on Foreign Affairs, until removed from it to the bench of the Supreme Court.

Notwithstanding the engrossing duties of his committees, he found time to inform himself in relation to the other business before Congress, and to participate in the discussion of every measure of importance, connected or unconnected with our foreign or domestic policy.

His support of the administration was liberal, without partisan intention, or advocacy of what he could not approve. Its foreign policy had his uniform support. He sustained free trade without denying the constitutionality of protection. He opposed internal improvements by Congress, except of rivers and harbors, which he always upheld. He differed from the President as to the distribution to the states of the revenue received from the sale of public lands. He opposed the re-chartering of the United States Bank, on account of its mismanagement and its power, always admitting, however, that Congress had constitutional power to charter a bank ; and he took an active part in the removal of the Indians to a permanent home, from which they can never again be driven into a hunter's life by the encroachments of the white man.

Three incidents in his congressional career, from the part he sustained in them and their results, require, however, more particular notice.

His position in relation to the re-chartering of the United States Bank, we find clearly defined in his speech delivered on the 13th March, 1832. (Gales and Seaton's Debates, Vol. VIII., part 2, Page 2129.)

At its commencement, that his future attitude to the bank, whatever it might be, should not be misunderstood or misrepresented, he asserted the constitutional power of Congress to charter a bank: and we find the assertion maintained throughout the speech. But he based his opposition to that bank, expressly, in terms, on the grounds, that the application for a renewal of the charter was made out of time, and for political purposes; on account of its power, the misuse of those powers, and the necessity for their limitation as shown by experience; and because, in the creation of a bank, new features ought to be introduced for the welfare of the government, the people, and the banking institutions of the states. A perusal of this speech will show, better than any idea we can give, the labor with which Judge Wayne investigated the subject, the comprehensive view of the operations of finance and trade that he took, and the prophetic foresight with which he foretold what would be the condition of the banking capital of the country, in respect to commerce and exchange, without any agency from a Bank of the United States. This speech was widely circulated, and brought him into correspondence and connection with the most distinguished bankers and financiers of the country.

In the contested election between Messrs. Moore and Letcher, of Kentucky, he acted most decisively against those with whom he usually voted. The record shows the ground upon which the former claimed the seat, and the ultimate result of the controversy. The inquiry was fast running into a party struggle, when Mr. Wayne attempted to arrest it by a speech, designed to show, that the rights of the contestants were, in their nature, judicial; in the trial of which, each member was bound to decide, as a judge, according to the evidence, unaffected by exterior considerations. He stated that he had given to the case a thorough examination and his most mature deliberation, and had come to the conclusion, that Mr. Letcher was entitled to the seat. His attempt was successful. Others joined him, and, by a vote of the House, the decision was made in favor of Mr. Letcher. This course, although it met with the disfavor of obstinate partisanship, lost him, in the end, no ground with the administration and its supporters. It gained him the consideration of many gentlemen of both parties, to whom he had been hitherto comparatively unknown; attracted to him public attention, through the newspapers; and many of those of his own political opinions, who had never done so before, now advised with him upon legal questions involving personal rights, which were to be acted upon by Congress, and acted with him upon them until they were finally disposed of.

The third incident was a question of the greatest magnitude and importance, embracing the deepest and broadest interests—indeed, vital to himself and to the country—involving the perpetuity of the nation itself. In the year 1832, even before the meeting of Congress, it was painfully apprehended by all who were attending to public matters, and by none more than by the President and his Cabinet, that the Constitution was to be tried and tested in a way it had never been before; and that executive interposition would be called upon to sustain it, unless there was such legislation upon the tariff as the politicians of South Carolina demanded. The legislature of that state, under the

lead of Mr. Calhoun, had taken the ground, that the state might, as to itself, nullify the acts of Congress for the collection of the revenue arising from imposts upon foreign goods. This was done upon the imputation, that the tariff acts were unconstitutional; and that any state, saying so, in its sovereign character, of any act of Congress, had a right to resist the enforcement of it within its boundaries. In the previous session, Congress had reduced the tariff—Mr. Forsyth in the Senate, and Mr. Wayne in the House, being the only members from Georgia who voted for it. This concession, however, by the national legislature, was not deemed enough by South Carolina, and at the ensuing meeting of the legislature it was so declared, and preparations were made by her for resistance. The time had now come when the President felt that he was called upon by every obligation of duty, to prepare to execute the laws with all the powers with which he was invested, and with such an enlargement of them as the exigency called upon Congress to make. In his annual message to Congress, in December, 1832, General Jackson adverted to the opposition in South Carolina to the enforcement of the revenue laws within her limits, designating it as endangering the integrity of the Union. About the middle of January ensuing, he communicated to Congress, in a special message, all of the papers, or documents, which had been transmitted to him by the governor of South Carolina, including the ordinance passed by “the convention to multiply certain acts of Congress,” together with copies of his own proclamation in regard to them. Never has any executive paper been received by the people of the United States with more approbation and enthusiasm. The governor of South Carolina issued a counter-proclamation. The crisis had come. But, fortunately, Providence had raised up a man of the right stamp to meet it. The act, known as the “Force Bill,” was passed.

Among those who strongly approved of the President's course, and defended it in Congress, was Judge Wayne. He voted for the Force Bill, and, in consequence, was denounced by a portion of his own party. But the people of Georgia sustained him,—as the nation at large supported the President,—and returned him to Congress by a larger majority than he had ever before received, and over the head of every other candidate, who, in Congress, had pursued the opposite course.

Throughout the whole of the exciting period of his congressional life, we find Judge Wayne, with the exceptions mentioned, an active and influential supporter and defender of the administration, but without the bitterness of party feeling. In debate he was ready, quick, ingenious and courteous, never forgetting, in the excitement of the subject or the moment, the respect due to himself, to the House, or to individuals. His legal practice, and the early habit of noting the arguments of eminent counsel, served him here to great advantage, and we find him generally, at once attacking the turning point of his adversary's argument. In his speeches we find no efforts at declamation, nor attempts at sounded or inflated periods of popular applause, but great research and varied information, exhibiting a thorough and extensive range of examination with much and careful study. In their arrangement, the system and habit of legal argument are evident; and we find

him adhering to the main points of the case with a tenacity that no diversions of his opponents could relax. He was always listened to with attention and respect; and although his arguments might fail to convince, his urbanity and dignified manner won the esteem and regard of all who heard him. In his politics he uniformly assumed high national ground; yet no one has defended the constitutional rights of the states more consistently, or with more vigor and ability, when those rights have been assailed. Calm in reflection, and deliberate in judgment, he steadfastly pursued his course, neither drawn aside by the absorbing vortex of centralization, nor madly impelled, by impetuous currents, upon the hidden dangers of secession.

The impressions and influences of his political career are to be seen in many of the measures of public policy to which he gave his support, and which are now matters of national history. But in none have they been more apparent and decisive, than in the advancement and prosperity of his native state, resulting from the removal of the Indian tribes within her borders; a measure, which the debate upon it shows, was one of the most violently and strongly contested, ever acted upon by any Congress. His speech upon that subject, (*Gales & Seaton's Debates*, vol. vi., part ii., page 1123,) sustained clearly and indisputably the moral and constitutional rights of the state of Georgia, to exercise jurisdiction and control over the Indian tribes within her limits, as asserted in the act of her General Assembly; tracing them from the universally assumed and acknowledged authority of the British crown—an authority recognized by the Indians themselves—and which was transmitted unimpaired to the sovereignty of the state, when the successful termination of the Revolutionary War, finally, and forever, put an end to colonial dependence. Without derogating from the merits of the other participants in this debate, we have no hesitation in saying, that upon his speech rests the action of the House.

Withdrawing from political strife upon the acceptance of the appointment to the supreme bench, he has taken but little part since in public affairs, and then, only upon the urgent solicitations of his friends, or the unequivocal demands of national obligations. As a delegate from Savannah, he attended the famous Knoxville Internal Improvement Convention, but perceiving upon its organization that it was merely called to confirm a predetermined conclusion, without an examination of, or regard to, the route through Georgia, he suggested to his colleagues, and impressed it upon them as essential to the interests of their own state, the imperative necessity of unanimous action; and recommended, as best calculated to promote agreement among them, and to render their action effectual, that the delegates from Georgia should meet daily, after the adjournment of the convention, for the purpose of examining and criticising its proceedings. The suggestion and recommendation were both approved and acted upon, and the result of these meetings was the subsequent convention of the people of Georgia, in which he presided, and in which was laid the foundation of that line of internal improvements, uniting the current of the Mississippi with the tide-waters of the Atlantic, so successfully undertaken, and now, almost completed. He has, also, presided in two conventions called for revising the constitution of his native state. And recently,

when the apple of discord was again thrown into the political circle, and factious leaders, destitute of political science and reckless of consequences, were urging the popular mind to embrace total destruction, as the sole remedy for local grievances, he once more took his stand boldly and firmly upon the "rock of the Union," and by his influence and arguments largely contributed to the attainment of that happy acquiescence in national legislation, which still continues us a united and prosperous nation.

"The love we bear our country is a root
Which never fails to bring forth golden fruit;
'Tis in the mind an everlasting spring
Of glorious actions ———."

The purposes of the work for which this memoir of Judge Wayne has been asked, and prepared, not permitting an extended review of his course as an Associate Justice, we are necessarily confined to a brief statement of those of his opinions in which only novel and important points have been discussed and adjudicated. By the professional reader we shall be fully understood; but by others, not conversant with the law and its history, we cannot expect an appreciation of the influences he has exerted upon the profession in this country; nor can we hope even for a general interest in the recapitulation of cases we are now about to make.

Appointed to the supreme bench on the 9th January, 1835, he took his seat on the 14th day of the same month. During the term of the court he was called upon to give the opinion of the court in the case of *Fenwick and Chapman*.* This case involved some important principles of general and Maryland law, relating to the construction of wills, the manumission of slaves, and other topics. The judgment is characterized by profound learning and logical reasoning.

In the case of *Kings et al v. Binns*,† decided in January, 1836, he evinced, as the organ of the court, that familiarity and high appreciation of the ethics of the law which had constituted so important a part of his professional education.

At the same time, he pronounced the opinion of the court in the case of *Wallingford v. Allen*,‡ determining some interesting questions, arising under the Maryland law, relating to the manumission of slaves, and the respective powers of husband and wife over slaves given to the latter for alimony.

In the following year, the case of *Livingston v. Story*§ presented for judgment several questions of a novel and interesting character. The peculiarities of the civil law, as modified in the jurisprudence of Louisiana, and the application to that code of the principles and practice of English equity jurisprudence, are distinctly explained in this case; and also in a subsequent one between the same parties.||

The effect to be given in one of the states of the Union to judgments obtained in another, and the true construction to be given to the con-

* 9 Peters. † 10 Peters. ‡ 10 Peters. § 13 Peters. || 13 Peters.

stitutional provision and legislation of Congress on the subject, the efficacy of the bar of the statute of limitations, and the order of payment of such judgments in the administration of the estates of decedents, are clearly and distinctly settled in the opinion pronounced by him, in 1839, in the case of *McElmoyle v. Cohen*.*

In *Kane v. Paul*,† he expounded the rights and powers of executors within the District of Columbia, who had received their letters testamentary in one of the states of the Union, and the distinction between such acts of the Orphans' Courts as are nearly void, and such as are only voidable.

At the same term, the novel case of the *United States vs. Wood*‡ came up for judgment. The party had been indicted for perjury, under the revenue collection laws; and the question to be decided upon a certificate of a division of opinion in the circuit court was, *whether it was essential, in order to obtain a conviction, that the government should produce at least one living witness, corroborated by another witness, or by circumstanees, to contradict the oath of the defendant.* The point was investigated by Judge Wayne with his accustomed acuteness and ability, and he delivered the opinion of the court, negating the question propounded for decision.

The case of the *United States vs. the Bank of the Metropolis*,§ presented some interesting questions as to the obligations of the government, in making itself a party to a negotiable commercial instrument, and of the power of a head of an executive department over the acts of his predecessor in office. The lucid opinion pronounced in this case by Mr. Justice Wayne, settled the law upon both these points, by establishing that the government, by accepting a draft drawn on it, assumes precisely the same obligations which an individual would incur by the same act; and that the Postmaster-General, possessing only the same powers and authority which were by law vested in his predecessor in office, could not disallow or recall credits and allowances made and sanctioned by such predecessor, if, in making them, he had acted within the scope of the authority given by law to the head of the department.

The case of *Dobbins and the Commissioners of Erie county*,|| involved the question of the constitutionality of an act of the Commonwealth of Pennsylvania, under which an officer of the government of the United States had been rated and assessed with county taxes, for his office as such. The judgment of the Supreme Court pronounced the law to be in conflict with the constitution of the United States, and therefore a nullity.

At the same time the celebrated case of *Prigg vs. the Commonwealth of Pennsylvania*,¶ brought to the consideration of the court the interesting questions relating to fugitive slaves, which have so long excited this nation. The opinion of the court was delivered by Mr. Justice Story. As, however, there were important differences of opinion on the bench, Mr. Justice Wayne delivered a separate opinion, concurring in, and supporting that held by the majority of his brethren. In this opinion will be found original views relating to the constitutional compromise on this subject, and its interpretation.

* 13 Peters. † 14 Peters. ‡ 14 Peters. § 15 Peters. || 16 Peters. ¶ 16 Peters.

In the session of 1844, the case of the Louisville, &c., Rail-road Co. vs. Letson,* brought up for reconsideration a question involving the jurisdiction of the courts of the United States. The proposition to be discussed and decided was, whether an incorporated body, deriving its charter from a law of one state, could be sued in the circuit courts of the United States by a citizen of another state, without the averment or proof that all the members of the corporation were citizens of the state in which the suit was instituted. This question had been presented to the court on former occasions, and a judgment upon it had been pronounced. The court was now called upon to review and reconsider its former judgments. The case was argued with distinguished ability. To Mr. Justice Wayne was entrusted the duty of delivering the opinion of the court. In performing this task, he admitted the authority of the decisions which were to be encountered; showed that the first had been decided without argument, and that the third had been reluctantly given upon the mere authority of the preceding cases; and that they had not been satisfactory to the bar, or even to the court. The subject is then elaborately discussed upon principle, and the jurisdiction of the Circuit Court asserted and maintained.

In 1846, Judge Wayne, in pronouncing the opinion of the court, in *Michaud vs. Giraud*,† was called upon to exhibit his familiarity with the principles of the civil law, which constituted the foundations of Louisiana jurisprudence, and the morality which pervades that system. The case had been argued with eminent ability, but the judgment of the court displays the most careful and discriminating examination of the facts of the cause, and a profound acquaintance with that system of jurisprudence which was to be administered.

In the case of *Williamson vs. Berry*,‡ from the New-York circuit, the opinion of the majority of the court was delivered by Mr. Justice Wayne, there being three dissenting opinions. The questions decided were numerous and complicated, so as to render it impracticable to present them at the same time in a brief, yet comprehensive form. But in it are decided for the first time in the Supreme Court, how far a minor's interest in an estate under a will may be affected by the legislation of the state, and to what extent a court of chancery may go in carrying out that legislation.

The case of the *United States vs. King & Coxe*,§ is one of the most remarkable cases in our judicial annals. It involved principles of law peculiar to Louisiana and the countries from which her jurisprudence had been derived. The defendants claimed title under a grant made by the Spanish authorities in Louisiana while a province of Spain; and it was understood that upon the decision made in this case, would depend upon a number of titles in the same region of country, emanating from the same source. Mr. Justice Wayne, with three of his associates on the bench, dissented from the majority of the court, and he delivered the opinion expressing the grounds of that dissent. In the discussion of the questions presented, he indicated a thorough acquaintance with the subject; and it cannot be questioned, that in the conclusions to which he came, as well as the legal principles, and in the statement

* 2 Howard.

† 4 Howard.

‡ 8 Howard.

§ 7 Howard.

of the usages of the Spanish authorities with which he sustained those conclusions, his views have been sanctioned by the unanimous concurrence of the learned bar of the state from which the cause was brought, and by the opinion of the most eminent juriconsults and statesmen of Spain herself.

The cases of *Smith v. Turner*, and *Norris v. the City of Boston*,* known to the profession, as the "Passenger Cases," again exhibited a great diversity of opinion on the bench. They presented the question of the constitutionality of certain statutes of the states of New-York and Massachusetts, imposing taxes upon alien passengers arriving from foreign countries in the ports of those states. The majority of the court concurred in the opinion that the statutes in question came in collision with the constitution of the United States, and were consequently void. On this point, Mr. Justice Wayne agreed with the majority of his brethren, and delivered an opinion, indicating minutely and clearly the points intended to be decided by the majority in the cause, and sustaining, with much additional research, the antecedent opinions given by the Supreme Court, in respect to the exclusive constitutional power of Congress to regulate commerce.

The case of *Oldfield v. Marriott*,† presented on its face the simple question, whether or not the vessels of Portugal are embraced within a clause of the act of July, 1846, reducing duties on imports, when taken in connection with the existing treaty with Portugal. But in delivering the opinion of the court, Mr. Justice Wayne gave a history of the policy and measures of the government of the United States from the year 1785; showing, that from that early period it had been incessantly laboring to persuade other nations, by both precept and example, to unite in a general system which should produce an universal and common abolition of discriminating duties upon commerce, as well in direct as in indirect trade.

Two important branches of the law, in which Mr. Justice Wayne has exerted an especial influence, demand particular notice here.

One of the most interesting subjects, in every point of view, which is exhibited in our judicial history, is that of admiralty jurisdiction. It is perfectly well known to the profession, and to his brethren on the bench, that no individual has more earnestly devoted himself to this particular topic, nor exhibited more industry or research in exploring it, nor contributed more effectively to the establishment of those principles which are now recognized as governing this interesting and important branch of jurisprudence, than the subject of the present memoir. In the year 1847, the case of *Waring v. Clark*‡ was brought to the consideration of the court. It was a suit in the admiralty, originating in a collision which occurred between the vessels on the Mississippi River, about ninety-five miles above New-Orleans. In the judgment delivered by Mr. Justice Wayne, it became necessary to examine at great length the history of the admiralty jurisdiction in both England and the United States, to institute a comparison, and to discriminate between them, and to lay down certain and precise rules, by which the

* 7 Howard.

† 10 Howard.

‡ 5 Howard.

courts of the Union are to be governed in the administration of their functions. This task was performed with great ability ; and it is believed that the lines there drawn will, henceforward, be regarded as permanently settled land-marks on this subject. In a dissenting opinion, in the case of *Cutler v. Rac*,* some additional views are presented in reference to the admiralty jurisdiction of the federal courts, which have had the concurrence of the profession very generally, and particularly that of Mr. Benedict, who has favored the profession, since that case was decided, with a learned and useful treatise upon the admiralty law. It is the opinion of Judge Wayne also, and has been so expressed by him officially, that the admiralty power given to the courts by the constitution, gives to the courts jurisdiction in admiralty upon cases occurring upon the lakes.

There is, perhaps, no one department of the law involving greater or more momentous interests than those which concern the public lands, particularly that portion of them which lies within territories which the United States have acquired from foreign powers. By our treaties with Spain, France, and Mexico, we have become the sovereign over immense tracts of country, which were alien to us when our constitution was framed. These territories were ceded to us with the most special provisions for the maintenance and protection of private rights previously acquired. Questions of the most delicate and difficult kind have constantly presented themselves for judicial decision, involving the construction of treaties, the laws and usages of the countries from which we obtained the territories in question, and requiring, in the determination of them, a profound knowledge of jurisprudence, a familiar acquaintance with the routine of executive administration in each ; but above all, a high sense of that honor and that justice which should keep out of view the pecuniary advantage which might result to the national exchequer from rejecting the claims of individuals, and pronouncing the lands which they claimed, and had long possessed, to be held by insufficient titles, and to belong to the public domain. In the investigation of such causes, it is perfectly well known that no member of the bench has been more laborious, more conversant with the law by which they were to be decided, nor, above all, more distinguished for high appreciation of the obligations of treaties, and impartiality in the adjudication of them.

A very brief review has thus been presented to our readers of the judicial career of Judge Wayne, so far as that history can be gathered from the reported decisions of the Supreme Court. Such a history is necessarily exceedingly imperfect, although we trust that sufficient has been exhibited to show, especially to a professional mind, the high and varied accomplishments and judicial qualifications of this justly distinguished judge. In the reports of the decisions of the English courts, it is at once seen that each member of the bench, even when they are unanimous in the conclusions to which they arrive, is in the habit of assigning his own views of the case and the grounds upon which he has concurred in the decision. In the Supreme Court of this Union, the practice, especially in recent years, has been different. Those who

* 7 Howard.

concur in the judgment pronounced, rarely assign their reasons for such concurrence; and in cases of dissent it not unfrequently happens, that even the fact of non-concurrence is not reported, but still oftener, the grounds and reasons of the dissent are not expressed.

We should, therefore, form a very erroneous estimate of the legal character of any member of that bench, should we draw our inferences merely from the opinions which he has delivered. Still more should we err, were we to confine ourselves to the same premises in estimating the influence which such judge has exercised over the jurisprudence of the country. We will not say that such narrow conclusions would do especial, much less exclusive, injury to the judicial character of the subject of these remarks; but it may unhesitatingly be said, that a more signal instance cannot be found in our history.

In concluding this brief, and necessarily very imperfect sketch of the career of Judge Wayne, it may not be unimportant to draw the attention of the professional student to some considerations which it suggests. The extensive additions made to the territory of the United States, by acquisitions from France, Spain and Mexico, have brought within the sphere of judicial action a multitude of cases which are to be governed by a code of jurisprudence widely different from the common law. Questions daily occur, which require, in their correct decision, a familiar acquaintance with the civil law, the various modifications which that code has undergone in Spain and in France, the colonial policy of those governments, and the usages and practices of their provincial functionaries. To comprehend these, a knowledge of the languages of these countries, as well as of the Latin, is indispensable. Indeed, it may truly be said, that at this period of our history, no man can, with credit to himself, or satisfaction to the community, perform the duties of a Judge of the Supreme Court of the United States without some knowledge of these languages, and an accurate acquaintance with those various systems of jurisprudence. We have seen that the civil law constituted an important part of the professional education of Judge Wayne, and its inestimable value has been made apparent throughout his judicial career.

Another branch of that education was also, as has been stated, the ethics of the law, a branch, unfortunately for the honor and utility of the profession, too frequently neglected. The fruits of this course of study have been conspicuous throughout the entire professional and political career of Judge Wayne, and have fixed a character upon his judicial life. Sterling integrity, pure honor, a sincere and ardent love of justice, a manly sympathy with the rights of parties independent of technical impediments, are manifest throughout; and the reports of the judgments of the courts in which he has so long officiated, will remain an enduring monument of his virtues as a man, and of his eminent qualifications as a judge.

HON. ROBERT N. MARTIN,
OF MARYLAND.

THE subject of this intentionally brief memoir was born at Cambridge, in the county of Dorchester, on the eastern shore of Maryland. He is the son of the late distinguished William Bond Martin, a judge of the Maryland Court of Appeals. After Mr. Martin had thoroughly prepared himself for the study of the profession of the law, to which he had resolved to devote himself by the acquisition of a classical and complete education, he, with great ardor, commenced his studies with his accomplished father. From the office of his father he passed to that of the Hon. Roger B. Taney, now the very eminent Chief Justice of the United States. Under the tutelage of this enlightened jurist he remained for some time, and until he was admitted to the bar. Soon after his admission, the people of his congressional district, reposing all confidence in his ability, integrity and patriotism, turned their attention towards him, as one who would be a fit representative of their interests in the Congress of the United States. At an age when Mr. Martin was barely eligible, he was elected by a highly complimentary majority; and in the debates on some of the important questions which arose in Congress, gave satisfactory evidence to his constituents and fellow-members that the confidence reposed in him had not been misapplied. Mr. Martin remained but one term in Congress, and then returned to the diligent pursuit of his profession, and by the advice of his friends located himself in the city of Baltimore, where they correctly supposed there would be found larger scope for the exercise of his varied accomplishments. After pursuing his professional avocations for several years in such manner as to command the respect of the bench, and to insure for him the affections of his brethren of the bar, Mr. Martin was called by Governor Pratt to a seat on the judicial bench as Chief Justice of the fifth judicial district; and it is admitted by his associates on the bench, by counsel practising at the bar of the court over which he presided, as well as by the suitors themselves, that he discharged his responsible functions in such manner as to give general satisfaction. By the judicial system as it existed while Judge Martin was on the bench, the chief judges of the several judicial districts constituted the judges of the Court of Appeal. As a judge of that court, Judge Martin may be referred to with pride and pleasure by every Marylander. If ever a judge held the scales of justice with a firm and steady hand, Judge Martin was that individual. Respectful to all in his judicial deportment, he was partial to none. His opinions, which are spread out numerous in the books, attest the profundity of his learning, as well as the fullness of his research.

One of the highest compliments which can be paid by his professional brethren to a judge, is justly due to this officer. In the administration of his office, and in presiding on the bench of justice, the youngest and least experienced member of the profession was as certain to receive at his hands a considerate and patient attention, as was the most gifted of the bar.

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